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POSSIBLE NEW ROUND OF TRADE NEGOTIATIONS

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

JULY 23, 1986

S. 1837 AND TITLE IV OF S. 1860, S. 1865

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POSSIBLE NEW ROUND OF TRADE NEGOTIATIONS

WEDNESDAY, JULY 23, 1986

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood (chairman) presiding.

Present: Senators Packwood, Danforth, Heinz, Grassley, Long, Baucus, and Bradley.

[The press release announcing the hearing and the prepared statements of Senators Heinz, Durenberger, Grassley, Bentsen, and Baucus follow:]

[Press Release No. 86-056]

SENATE FINANCE COMMITTEE SETS ADDITIONAL HEARINGS ON TRADE ISSUES RAISED BY S. 1860

Senator Bob Packwood (R-Oregon), Chairman of the Senate Committee on Finance, announced today that the Committee will hold four additional hearings on trade issues presented by S. 1860. These hearings will be held in SD-215 of the Dirksen Senate Office Building. Senator Packwood noted that the Subcommittee on International Trade has already held five hearings (on May 13-15 and June 17, 1986) on a number of issues presented by S. 1860 and other bills which share its themes.

On July 17, 1986, at 9:30 a.m., the Committee will consider proposals to reform the escape clause, contained in section 201 of the Trade Act of 1974. Witnesses are asked to address specifically S. 2099, sponsored by Senators Roth, Wallop, and Durenberger, as well as S. 1863, principally sponsored by Senators Heinz, Baucus, and Domenici, incorporated in S. 1860 as title III.

On July 22, 1986, at 9:30 a.m., the Committee will take up consideration of legislation relating to Section 301 of the Trade Act of 1974, which contains presidential authority to respond to unfair foreign trade practices. The hearing will focus primarily on S. 1862, principally sponsored by Senators Chafee and Bradley and incorporated in S. 1860 as Title III. The Committee is especially interested in comment on proposals to expand the scope of foreign practices actionable under Section 301 and to mandate retaliation within set time periods.

On July 23, 1986, at 9:30 a.m., the Committee will continue consideration of a possible new round of multilateral trade negotiations. Ambassador Yeutter outlined the Administration's approach to such a new round in his May 14, 1986 testimony before the Committee's Trade Subcommittee. Witnesses at the July 23, 1986 hearing are asked to address specifically the provisions of S. 1865, incorporated in S. 1860 as Title IV, and S. 1837. In particular, witnesses should include in their written statements such views as they may have on the following:

U.S. negotiating objectives;

Standstill or rollback agreements and the kinds of trade actions which should be covered in such agreements;

Multilateral mechanisms addressing persistent and excessive current account imbalances;

Transformation of existing quantitative restrictions into tariffs or auctioned quotas;

Congressional procedures for the implementation of such multilateral trade agreements as may be reached.

Finally, on July 30, 1986, at 9:30 a.m.. the Committee will consider proposals to amend section 232 of the Trade Expansion Act of 1962 relating to imports which threaten to impair the national security. S. 1871, principally sponsored by Senators Grassley, Dixon and Dole, establishes a ninety day deadline for Presidential actions under section 232, and is incorporated in S. 1860 as Title X.

OPENING STATEMENT OF SENATOR HEINZ

When the committee first took up the question of a new round of trade negotiations, I indicated I felt it was unwise for the U.S. to enter into new negotiations.

At that time, I pointed out that we do not have an adequate understanding or analysis of the costs and benefits of the last round to the United States. Although the Tokyo round promised many economic benefits for the U.S. (primarily in rectifying problems concerning subsidies, dumping, and other trade barriers), detailed analysis of the economic effects of our trade concessions and of the extent to which nations have hindered agreements has yet to be done. Without this analysis, it would be foolish to rush into new trade negotiations. I believe USTR has begun to review some of these questions but does not yet have any answers.

Another reason I have reservations about the U.S. entry into a new round is the reluctance of the administration to pursue an aggressive trade policy. Time after time, the administration has continued to reject virtually every congressional proposal to strengthen our trade policy. Until recently, they blamed the high dollar as the reason for our declining competitiveness. Well, the uneven decline in the dollar has proven the problem is broader than that; yet instead of supporting some of the many congressional proposals on trade or submitting their own, the administration offers only inaction. Sooner or later, this will become obvious even to the most blind economists, but in the short run we are not seeing any sign that the administration really understands what is happening to our economy.

Another issue that has arisen in the last few months is that of a standstill and/or rollback of trade limiting actions. This is another of those ideas that sound great but are seriously deficient. The problem is how it would be interpreted and manipulated after the fact. I fear that our trading partners, particularly the Europeans, would follow their usual practice and "over-interpret" a standstill or a rollback as proscribing every trade initiative we subsequently take and would use it to damage our global credibility as supporters of an open trading system. Likewise, the administration will not be able to resist the temptation to over-interpret a standstill in the same way to provide an excuse for not acting when issues are brought forward, either by Congress or a private party. If we agree to a standstill we put ourselves in a much more dangerous position than would be implied by the text of any agreement.

U.S. participation in multilateral trade negotiations should enhance discipline in the trading arena and enhance economic prospects for American producers. Only after in-depth analysis of past trade negotiations and after the administration demonstrates its willingness to cooperate with Congress can a new round be successful.

OPENING STATEMENT OF SENATOR DAVE DURENBERGER

Mr. Chairman, I would like to take this opportunity to commend you for scheduling this important second hearing on a potential new round of multilateral trade negotiations. There are many difficult and complex issues that a new GATT negotiating round should address, including technology transfer, trade in services and agriculture, and new and tougher rules for protecting intellectual property rights.

I must apologize to the Chairman and the witnesses who will testify for my inability to stay longer at this hearing. This morning I am required to Chair a hearing at the Senate Select Committee on Intelligence. I have, however, read the prepared statements of the witnesses and would like to take note of the testimony of two distinguished Minnesotans who will be testifying this morning.

I am especially pleased to see that William Norris, founder of Control Data, and now Chairman Emeritus of the company, will testify on barriers to technology transfers between the United States and its major trading partners, especially Japan. Bill Norris is not only one of the most respected citizens in the State of Minnesota, but is one of this country's most distinguished individuals. He is considered by many to be the "founding father" of the computer industry.

Bill's contributions to the growth and development of the computer industry were recently noted when in March, he was awarded the National Medal of Technology by President Reagan for his "substantial contributions to the development of digital computer technology, for his innovative application of computers to societal needs and for his initiative of cooperative efforts to maintain U.S. competitiveness in microelectronics." Bill's comments on barriers to technology transfer are thoughtful and incisive, and I believe that we should give careful consideration to his recommendations.

I would also note that William Pearce, Senior Vice President of Cargill will be testifying on behalf of the U.S. Chamber of Commerce. I've known Bill for many years and have always found his views on economic and trade policy to be thoughtful and well reasoned. I believe that his suggestions for U.S. priorities in an upcoming round of GATT negotiations provide an appropriate framework for our negotiators to start from in what will surely be some of the most difficult and complex trade negotiations we will face in some time.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR CHARLES E. GRASSLEY

Mr. Chairman, I commend you for holding this second hearing on the possible new round of multilateral trade negotiations.

As you may recall in my earlier statement on this issue * * * and my questioning of Ambassador Yeutter * * * I had some strong concerns regarding the exclusion of agriculture from the agenda. I am pleased that the confusion over the wording of the final communique from Tokyo on this subject was clarified. Ambassador Yeutter has confirmed that agriculture will be included in the GATT talks, and that for the United States at least, it will be a very high priority item.

What I believe is needed now is the formulation of a coherent strategy aimed at addressing as wide a range of issues as possible so that we can build a truly free and fair world trading system. We need to also stress that the new round of meetings are not to be for social purposes, but rather to address and resolve the most pressing world economic issues, as well as to revitalize the global free trade system.

Mr. Chairman, there are unmistakable signs, both in the United States and abroad, of a developing crisis of confidence in the system. The crisis in the United States is reflected by the mounting pressures over the past few years for import restrictions of foreign made textiles, clothing, shoes, steel, electronic parts and automobiles which have been penetrating our market. We've also seen a growing demand for retaliation against foreign measures which place American agriculture industry at a disadvantage in markets abroad.

Overhanging these doubts and frustrations is the belief that we lack the sense of priorities and the organization to deal effectively in our foreign economic relationships. Yet the administration's policy of benign neglect continues as if we were trading with the world as it was 40 years ago. In just a few short years, we have turned from the world's greatest creditor to the world's greatest debtor.

The questions we must ask ourselves are: How did we get to this point in the first place? * * * And how do we respond to the inequities in the system? Hopefully, it will be through a new GATT round in which all the countries of the world will agree to a set of rules for keeping the trading system in tack. We can then reduce and eliminate barriers to trade on a reciprocal basis and establish international trading laws which are enforceable.

Clearly, the time has come to take stock of where we are and where we want to go from here. Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR LLOYD M. BENTSEN

Mr. Chairman, the new round is not being proposed by the Administration. The new round has really been proposed by events, by the state of the world economy.

Total world trade is not growing. Commodity prices have collapsed. Government intervention in trade is rampant. The General Agreement on Tariffs and Trade (GATT) covers less than five percent of trade. No mechanism exists to intermediate between currency markets and goods markets. And American society, the world's largest importer and its largest exporter, is undergoing a trauma of adjustment.

This round promises to be the most complex and subtle yet. We must somehow come out of it having resolved not only trade problems, but those of debt and exchange rates, and many others. Legislation to implement such a negotiation could touch American banking and insurance regulations, agricultural and public works programs, even environmental and social regulations.

And yet, right now, the United States is about to enter the new round without having done its homework.

The Administration is preparing to go to the Ministers' meeting in September in Punta del Este with no mandate from the American people, because the American people have not been admitted to the back rooms where the agenda of the new round is being discussed. Who in this room can say what our objectives are with respect to American agricultural programs, our debtor nation status, our eroding industrial base?

My concern is not limited to the fact that the United States has failed to establish objectives for the new round, although that is certainly true.

What is more important, and more troubling, is the way this Administration has chosen to do business with Congress on trade policy.

Mr. Chairman, ever since 1934, when Cordell Hull convinced Congress to cede virtually all its powers in trade to the Executive Branch, every Administration has retained the confidence of Congress by consulting with Congress every step of the way in trade. Congress has a Constitutional role in the trade agreements program of the United States. The Executive Branch fails to consult with Congress at peril to American trade policy.

In 1968, President Johnson sent a proposed antidumping agreement up here. He had not fully consulted with this Committee, and there were objections to the agreement. This Committee killed that agreement.

It took five years to figure out a way to do business after the defeat of the 1968 antidumping agreement. During that five years, no serious trade negotiations could take place. We got into a trade war with the European Community.

When things seemed almost desperate, we came up with a solution we now call "the fast track." The fast track is a set of legislative rules, but it is more than that; the key is consultation.

At one point in 1978, Congress discovered that the Government Procurement Code would have undermined U.S. minority contracting programs. Ambassador Strauss took that advice in hand and went right back to Geneva to renegotiate that agreement, and it was implemented with all the others, almost unanimously.

Without the legislative rules of the "fast track," it would be almost impossible to implement international trade agreements. But without consultation between the Administration and Congress, this Committee has no business authorizing fast track procedures.

In the last six years, the Administration has steadfastly refused to consult. The uncertainty and near disaster that accompanied this Committee's decision on the Canada agreement earlier this year was an indication of just how far this Administration has allowed the consultative mechanism to deteriorate.

There are those in the Administration who think they won a round on Canada, even though the President told Senator Matsunaga he "learned his lesson" on that vote. They see the Canada pre-approval decision last April as a game of chicken with Congress, and they think that Congress lost.

Things have deteriorated so far that Senator Wilson, a Member of the President's own party, has proposed an amendment to abolish the fast track, which amounts to repeal of all authority previously delegated to the Executive Branch in trade. Senator Wilson will be free to offer this amendment on any trade bill we report to the Senate.

I will oppose Senator Wilson's amendment, but frustration is so great, it may pass. And while I disagree with Senator Wilson's approach, I cannot condemn the source of his frustration: He feels he was stiffed by the Administration on trade.

Whether your problem the last six years has been steel or textiles or semiconductors or lumber or bromine or ammonia or shoes, or even foreign unfair trade barriers or proposals for currency intervention, many Members of this Senate and even of this Committee have been stiffed on trade.

The Administration stiffed us when some of us suggested self-initiated section 301 cases; now they are taking the credit for a policy not yet a year old.

The Administration stiffed the whole Senate when it passed a resolution urging currency intervention a year ago, and now they are crowing about a policy they adopted under duress.

I am not complaining about those policy changes; I applaud them. But what of the future? How are we to run trade policy in the new round?

Today, the Administration is vilifying both House and Senate trade legislation as "protectionism of rankest order," "kamikaze legislation," and "destructionist." Yet they have not proposed their own legislation to authorize a new round of trade negotiations. How are we to know what the President intends for the future of American trade policy? Is he about to embrace the House bill?

It is profoundly irresponsible for the Administration to be taking the attitude that they will leave everything to the end of the new round, and then Congress will chicken out, like it did on Canada. The United States simply cannot afford to have Congress and the Executive Branch at odds for the whole life of the new round. The new round is just too important.

This country need a new relationship between Congress and the Executive Branch in order to succeed in the new round.

Mr. Chairman, I have consulted other Members widely on this subject. More than a year ago, the Senate Democratic Working Group on Trade Policy emphasized the importance of the Executive-Legislative relationship in the new round. That report was endorsed by the entire Democratic conference of the Senate.

The very day our report was announced, Senator Danforth made a speech halfway across town that, by coincidence, contained many of the same thoughts. The new trade relationship is a bipartisan concern.

Some ideas for resolving this question are expressed in S. 1837, a totally new authority for a new round cosponsored by 47 Senators. I have many other ideas of my own. This Committee can and should work together to create the necessary new trade relationship with the Executive Branch, and thereby help to assure the success of the new round.

We need to do this before this year is out, before the Administration is discredited or worse in the early stages of the new round. Right now, this country is simply not prepared for the new round.

OPENING STATEMENT OF SENATOR MAX BAUCUS

THE NEED FOR PRIVATE SECTOR PARTICIPATION

Mr. Chairman, I commend you on holding a special hearing on the GATT round, focusing on the private sector. As you know, I am the chief sponsor of this section of the bipartisan trade bill. I think we cannot emphasize this issue enough.

This hearing is important because this GATT round will succeed or fail, depending on the support of the private sector. If you don't believe that, remember the fight in this Committee over the Canadian free trade agreement. The Administration did not have private sector support to enter those negotiations. Many industries told me the Administration had not consulted them, and, as a result, they did not support the negotiations.

In the GATT round as well, we will not successfully enter these negotiations if the private sector is not brought on board. We must move as a unified country into these negotiations. That can only be done by engaging the private sector in the process.

Unless, the private sector is brought on board, Congress will not support negotiations. In a democracy like ours, Congress is the channel through which the various interests in this country speak. If the private sector is not supportive, Congress will not be supportive.

AREAS TO ADDRESS IN A NEW ROUND

There are two areas in particular we should address in this new round.

Agriculture.—Agriculture must be a central piece of the new round. The EEC and other countries are killing our exports by providing extravagant export subsidies, which have contributed to the first agricultural deficit we have suffered in years. Those subsidies are draining the budgets of those countries, and they will drain the budget of this country as we are forced into an export subsidy competition. Disciplining export subsidies must be a top priority in the New Round.

Dispute Settlement.—We heard yesterday about the frustrations of the soybean and pasta industries and others who sought relief from unfair trading practices under our own trade laws (Section 301) and then were blocked completely by the GATT dispute settlement process. We need to inject certainty into the dispute settlement process. We need one that is results-oriented. If we continue to tolerate a dispute settlement procedure that is a paper tiger, there's no point in holding a New Round of trade talks.

The CHAIRMAN. The committee will come to order, please. Today we take up the issue of a new round of multilateral trade negotiations. Ambassador Yeutter testified on this subject before this committee on May 14, and today we will hear the private sector views on this subject. There is probably no other issue in all of the bills we are considering which more fundamentally addresses the relationship between the President and Congress in the making of trade policy.

In molding this authority, we not only define our role in the making of trade policy for years to come, but also cast a long shadow over the shape and direction of the international trading system.

Although the administration has not formally requested an extension of its fast track authority, we are informed by reliable sources that they are interested in obtaining such authority. With or without such authority, the administration appears intent on lodging a new round at Puenta del Este, Uruguay, on September 15, 1986 and making significant commitments with respect to the conduct of United States trade policy.

If Congress is to extend the present fast track authority, which expires on January 3, 1988, it is appropriate that we ask and obtain answers to some of these fundamental questions. In a sense, new round authority is like the proverbial social contract. Congress has a right to obtain certain commitments and assurances from the administration, if it is to relinquish its important prerogative to debate without limit and amend legislation implementing multilateral trade agreements.

At a time when Congress believes the administration ignores its constitutional role in making trade policy, I know this committee will want to consider very carefully the question of authority for a new round of multilateral trade negotiations.

While the witnesses today can help define U.S. objectives and goals in the new round, only Congress can make the fundamental assessment of its role in making the trade policy, which is raised by the proposed grant of authority.

We have a long list of very distinguished witnesses today, and we will start with a panel consisting of George Clark from Citibank; Broughton Bishop, the chairman of the board at Pendleton Woolen Mills; William Norris, chairman emeritus, Control Data Corp.; Carlos Moore, executive president of the American Textile Manufacturers Institute; Stanley Nehmer, the president of the Economic Consulting Services; and Joseph Greenwald, chairman of the Subcommittee on Multilateral Trade Negotiations, U.S. Council for International Business.

Gentlemen, will you please come up? Unless you have otherwise arranged among yourselves, we will take your testimony in the order that you appear on the witness list.

I want to especially welcome this morning Brought Bishop, who is a friend of at least 30 years standing and the chief officer of the old, old, old, still family-held Oregon company, Pendleton Woolen Mills, who has been one of my closest friends and advisers for as long as I have been in politics. Brought, it is good to have you with us this morning.

You gentlemen, I think, were told several days ago to try to confine your testimony to 3 minutes. Your entire statements will be in the record; and to the extent that you had submitted your statements ahead of time, I have had a chance to read the statements. And we will start with Mr. Clark.

STATEMENT OF GEORGE J. CLARK, EXECUTIVE VICE PRESIDENT, CITIBANK, N.A., NEW YORK, NY, ON BEHALF OF THE COALITION OF SERVICE INDUSTRIES, INC.

Mr. CLARK. Thank you, Mr. Chairman. Mr. Chairman, I am here today representing not Citibank but the Coalition of Service Industries, CSI, which is the only national organization representing the interests of the service segment of the U.S. economy. So, I am going to direct my comments to the service aspects of the trade legislation that is being considered.

As I mentioned, we are basically representing the service industries; and as such, we provide services to agriculture and industry of the United States. If we are going to be effective in continuing to provide those services, we need to operate in global markets in a way which is relatively free from excessive restrictions, impediments, and barriers. In that sense, our situation is not unlike the situation faced by exporters and importers with respect to tariffs and other barriers to trade.

Unfortunately, we feel that our situation is often lost sight of when we get into these proposals for new legislation, and we are happy that you have given us this opportunity to express the concerns of the service industry. In the written submission that I have made, I list on page 5 some of the barriers that just one industry, the banking industry, faces around the world; but the other service industries encounter similar types of barriers in the global marketplace. So, we basically need help in this situation, and we don't have an organization or structure to help the service industries deal with this rising tide of restrictions.

So, for us, GATT represents the best alternative. We recognize that GATT is not all that we would like it to be, and we know that GATT was set up to deal with tariffs and trade. However, much of the work that we are involved with in the service industries and many of the impediments are similar in that we are dealing with local protectionism which tries to block the development of the service industries from the United States.

So, in that situation, the GATT is somewhat parallel, and we believe that we need to get going. We need to use the GATT. It is the best thing we have got. We don't know what we would do if it weren't there; and we urge that in any discussions of the GATT development in Montevideo and subsequently, that the needs of the service industry within the context of the GATT be emphasized.

I would just like to say by way of conclusion that, if we are going to be effective in providing the support that the service industry can for agriculture and for industry in the United States, we badly need to get going, and we think that the GATT initiative offers us the best opportunity.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Brought Bishop.

[The prepared written statement of Mr. Clark follows:]

STATEMENT OF

GEORGE J. CLARK

EXECUTIVE VICE PRESIDENT, CITIBANK

ON BEHALF OF THE

COALITION OF SERVICE INDUSTRIES

Mr. Chairman and Members of the Committee, I am George J. Clark, Executive Vice President of Citibank. I am pleased to appear before you today to address international trade issues on behalf of the Coalition of Service Industries, of which my own company was one of the founders.

The Coalition is a working group of representatives of 26 of America's largest multinational service sector companies. Our objectives have included the improvement of the nation's statistical base on the evolution of the service sector of the economy, equitable government treatment for service sector firms, and the resolution of problems in international trade in services, including intellectual property issues and the lowering of barriers to entry into foreign markets.

We welcome the interest of this Committee in the prospect of another round of global negotiations within the framework of the General Agreement on Tariffs and Trade (GATT). While many of us have long been accustomed to thinking and speaking of international trade in "goods and services", it must be recognized that the founders of the GATT focused that organization on trade in goods, reflecting the economic and trade patterns of that period. The GATT has therefore been concerned largely with tariff negotiations as well as certain nontariff barriers.

The Coalition of Service Industries has been working since its creation almost five years ago to achieve greater awareness both in the public and private sectors of the growing importance of the services sector for the economy, and thus for public policy-making. We have been pleased to see increasing recognition of these developments, both by the Congress (in the Tariff and Trade Act of 1984) and in the Administration's determined push for the inclusion of service sector issues in the next GATT negotiating round. Most recently, this past week's agreement in Geneva on the inclusion of services trade and investment is most encouraging.

You may ask just what are these "services" fields which now comprise such a large portion of our economic activity. The best way for me to answer is to list some of the fields represented by our CSI member companies: banking, insurance, telecommunications, data processing, maritime transport, advertising and public relations services, travel and tourism services, accounting, entertainment, management consulting, engineering and construction, food, medical and employment services, and others.

Before I get into further detail, however, allow me to make a couple of comments on how I view the importance of preserving a liberalized trading system. It seems to me that the U.S. economy is irrevocably dependent upon selling our goods as well as services in the global marketplace. As the Committee is aware, most recent job creation in the U.S. has been in export-related industries. Two out of every five acres of our farmland are planted for export. And our service industries, from insurance and banking to engineering and communications, are increasingly competing in world markets. We must continue to work toward keeping access to those markets open, and to avoiding triggering "trade wars" with other nations to our mutual disadvantage.

And let me say a few words from my vantagepoint as a banker: Many of America's key markets in the developing world have suffered because of the international debt crisis of the past few years. If those markets are to be revived, to all our mutual benefit, then we must keep on the path toward market-opening rather than market-closing measures. This means that the United States must also remain open to imports from our trading partners. Only in this manner can the debt-ridden LDC's earn their way back to financial health, making it possible for U.S. export sales to those areas to grow back to healthier levels. Needless to say, Secretary

Baker's so-called "Baker Initiative" to resolve the financial problems of the Third World can only succeed if these trade channels are kept open.

Now let me focus for a few moments on the service sector and its problems. Government policies around the world have been slow to react to the evolution of the service sector, even though, in most industrialized countries, service industries now make up a significant portion of the economy and the work force. In our own country, 70% of the jobs are now in the service sector of the economy. Despite this development over the last several decades, the government's basic view of the economy, as reflected in its traditional statistical base, has until recently remained focused on traditional manufacturing, mining and agriculture. Likewise, the global trading community has failed to keep up with the changing times, as exemplified by the lack of any accepted international rules on the conduct of international trade in the service sector businesses.

Virtually all U.S. service industries face some discriminatory barriers in foreign markets. Let me speak again as a banker, for a minute, and list some of the problems I and my colleagues face abroad:

- In some countries, barriers to entry, -- to the establishment of a banking operation of any sort.

- In others, limitations on ownership and control, or requirements that we operate only through a subsidiary rather than a branch, -- a de facto limitation on the volume of business we can transact, relative to locally-owned banks.

- Limitations on types of services our banking affiliate is allowed to conduct.

- Geographic limitations on where, within a given country, we are permitted to offer our services.

- Limitations on the types of funding instruments we can use to attract deposits.

- Restrictions on the processing and transmission of data integral to our business.

- Arbitrary growth and market share limitations, imposed on foreign banks, to preserve a protected market for domestic banks.

Other services industries represented by the Coalition face correspondingly discriminatory barriers in many overseas markets.

Some progress has been made with some countries toward resolving some of these problems, and I would like to express my appreciation for the support of both the Executive and Legislative branches of our Government in this regard. As serious problems persist, however, we would hope that they could be addressed under broader international understandings. The GATT would appear to offer an added mechanism for promoting such agreements.

I recognize that the shapers of the GATT did not anticipate the evolution of the service sector and its growing importance in international trade. No doubt there will be some difficulties in adapting the GATT approach, and it will take time. However, I do believe that, in addition to working through other existing channels, we should attempt to include these important issues in the coming multilateral trade negotiations round.

What should our specific objectives be? The services sector is a varied one, and it will take time to sort out the most appropriate rules for each unique business. But I believe it would be helpful to get general agreement on the basic principles of right of entry to markets; in many businesses such as ours, physical presence is necessary in order to provide a full competitive range of services to our clients, and that means that the concepts of right of establishment and of "national treatment" are important to us.

I am well aware that some developing countries oppose the inclusion of these types of issues in the negotiations, partly because of sensitivity toward weakening their barriers to foreign direct investment. In my view they are making an error. Unless LDC's pursue a policy of opening their markets they will not attract the investment capital they need for their economic development.

In addition to the negotiating objectives of right of establishment and "national treatment", I would like to add the Coalition of Service Industries' strong endorsement of the Administration's proposed actions to protect intellectual property. We strongly hope that the new Multilateral Trade Negotiation can successfully agree upon effective ways to combat the extensive piracy of copyrighted and patented products around the globe. In addition, we welcome the legislative action proposed under Title VIII of S. 1860 to strengthen our own government's ability to deal with this serious problem.

In summary, the Coalition of Service Industries strongly supports the U.S. Government's efforts to gain agreement to a new round of GATT multilateral negotiations on the terms it has specified, namely, with the inclusion of the problems growing out of trade in services as well as in goods, and urge Congressional authorization of the Administration's proceeding with those negotiations. With the agreement reached among 40 of the key GATT members last week, the momentum for such an agenda appears to be there. We would hope that our own Congress will send the positive signals that these negotiations will require if they are to be successful.

STATEMENT OF BROUGHTON H. BISHOP, CHAIRMAN OF THE BOARD AND TREASURER, PENDLETON WOOLEN MILLS, INC., PORTLAND, OR

Mr. BISHOP. Thank you. Thank you very much for inviting me here. It is a pleasure to be here. I have never met Senator Baucus, but we have bought his family's wool in years past, and it is nice to see you.

Senator BAUCUS. When I saw your name on the witness list, I wondered if perhaps you had.

Mr. BISHOP. You are tough sellers. [Laughter.]

Senator BAUCUS. I am glad to hear it from you.

Mr. BISHOP. My name is Broughton Bishop. I am chairman and treasurer of Pendleton Woolen Mills. Pendleton is a family-owned business located in Oregon, since my great grandfather settled there in 1863. Pendleton has plants in Oregon, Washington, Nebraska, Iowa, New Hampshire, and Pennsylvania. I have been a student of our industry's trade problems since the early 1960's.

I was an industry observer at talks with the Japanese in Tokyo in 1965. Warren Christopher headed up the negotiations for the United States. At that time, we were trying to get Japan to talk about trade; they wouldn't even discuss trade problems with the apparel and textile industry of the United States. In those days, Clarence Randall of Inland Steel and Henry Ford were outspoken advocates of free trade.

In 1970, I testifed at Senator Packwood's trade hearing in Portland, and I have included a copy of my 1970 testimony with my statement today. People who testified at that hearing as opposed to any controls in imports from low-wage countries are now suffering.

In the 1970 hearing, it was on a trade bill—the Trade Act of 1970—that I believe eventually became the Trade Act of 1972, which authorized the participation in the multifiber arrangement, the MFA. I spoke in favor of our participation in the MFA, and I am here today to respectfully suggest that MFA concepts be adopted by this committee as the basis for a statement of trade policy for this country and for a set of objectives for future trade negotiations.

The President should not be authorized to conduct a new trade round until such a policy has been established by Congress. The policy statement as written in the present bill does not do the job because it omits three basic cornerstones on which the MFA is based: One, that the United States will continue to share its markets with other countries to promote worldwide economic progress and to ensure competition in our own markets; two, that we also intend to share the orderly growth in our markets; and three, that we will not allow import surges to disrupt our markets in instances where the competitive factors are not evenly balanced or where national security is an overriding consideration.

Based on these concepts, and under the rules of GATT, the MFA provides that bilateral trade agreements be negotiated between trading partners. The system works, but for the past 5 years, it hasn't worked for our textile and apparel industries in the United States because the administration has not enforced the agreements that were negotiated.

Competitive factors are not evenly balanced when domestic labor-intensive industries must compete with 15 and 20 cents an hour wages in Japan—or excuse me, in China, with its population of 1 billion people. The domestic textile and apparel industries are excellent examples; they are among the most competitive in the world in terms of output per manhour, but they can't survive against low-wage countries in the Far East.

It was that way 25 years ago, and it will be that way for at least another 100 years. With an MFA-type policy in place, it is appropriate for Congress to pass legislation when the administration fails to follow the policy or fails to enforce trade agreements that have been negotiated.

The Textile and Apparel Trade and Enforcement Act is an example of such legislation. It passed both Houses with wide margins, and Congress should vote to override the President's veto. The United States is not able to deal effectively with its trade problems today because it doesn't have a clear trade policy. In Senate bill 1860, there is a wonderful opportunity to do something about this.

An MFA-type solution will work. Other countries in our position make it work, and Congress can make it work. Our trade problems aren't just going to go away. Thank you.

The CHAIRMAN. Thank you. Mr. Norris.

[The prepared written statement of Mr. Bishop follows:]

Statement of
Broughton H. Bishop, Chairman of the Board and Treasurer
Pendleton Woolen Mills, Inc.

appearing before the
Senate Finance Committee

at its Hearing on Senate Bill S. 1860
Washington, D. C.
July 23, 1986

Senator Packwood and Members of the Senate Finance Committee:

My name is Broughton Bishop, and I live in Portland, Oregon. I am Chairman of the Board and Treasurer of the Pendleton Woolen Mills, Inc. which is a family business. We've been in the woolen textile and apparel business in Oregon since my great grandfather came west in 1863. I've been in the business all my life and had the pleasure of appearing before Senator Packwood at an Import Hearing in Portland 16 years ago on September 4, 1970.

As a supplement to my remarks here, I am including my testimony given at that Hearing. The subject was The Trade Act of 1970. It's fascinating reading because, at that time, Congress and the Administration were searching for a procedure within the rules of GATT that ultimately became the Multifiber Arrangement. We testified in favor of that approach. It is an intelligent approach, it is now in place, but it is not working, and it's up to Congress to make it work.

We are here today because S. 1860 presents an opportunity to incorporate the basic concepts behind the MFA as the foundation for a trade policy for the United States. A meaningful trade policy doesn't exist today. We feel it is vitally important for Congress to establish such a policy and set mandatory guidelines to be followed by the President in dealing with international trade matters including negotiating and enforcing trade agreements. Until Congress lays down these guidelines, the President should not be given authority to undertake a new round of trade negotiations. For example, it would be devastating in the textile and apparel industries to further reduce tariffs in this sector when imports are flooding this market at record levels as has been the case for the last three and a half years.

The cornerstone of an MFA-type policy is that the United States welcomes imports of raw materials and manufactured goods as a means of promoting competition in our own markets and as a means of providing U. S. dollars to our trading partners which they must have to buy our products. Our trade policy should provide that imports also share our markets in an orderly way.

Such a policy should state that the U. S. will not allow import surges to disrupt our markets in instances where the competitive factors are not evenly balanced or where national security is an overriding consideration. Prevention of this kind of market disruption can be achieved through bilateral and multilateral negotiations, but achievement requires mandatory negotiation and enforcement guidelines laid down by Congress.

Competitive factors are not evenly balanced when domestic labor-intensive industries must compete with $1.00-per-hour wages in Hong Kong, much less with 20¢-per-hour wage rates in China. The domestic textile and apparel industries are excellent examples. They are among the most competitive in the world in terms of output per man-hour, but they can't survive against low-wage competition from the Far East that is further intensified by such artificial devices as China's two-tier exchange system.

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A statement of trade policy should also include Congress's resolve to giving special consideration to developing countries in sharing our markets, to eliminating or offsetting practices of non-market economy countries that distort trade, to protecting patents of U. S. citizens, and to providing a more effective remedy for unfair trade practices of any nature.

A trade policy encompassing these concepts is essential if the United States is to remain competitive and provide an upward standard of living for the present and future generations.

This committee is to be applauded for the effort it is making in giving attention to the trade problem. This legislation, however, should be viewed as a starting point. Any comprehensive trade legislation that passes the Congress this year and does not address the basic problem in the textile and apparel area can hardly be very meaningful to the overall trade problem in this country. This particular sector accounts for over 11% of the current trade deficit and employs over 2 million people. It is an industry whose production is second largest in the country in terms of GNP, $47.8 billion, and is categorized as "essential" by the Department of Defense as related to the Country's defense posture.

All of this is well documented, but the fact is that S. 1860 doesn't address this problem.

Basic to our trade policy should be a requirement that the trade remedy tools available to the Government under the Multifiber Arrangement and the protocol accompanying it be used in dealing with the textile and apparel import problem. The European Community has used these tools to control disruptive trade into its markets from the same sources impacting our market. So it can be done. A trade policy established by the Congress should require no less by the U. S. Government.

* * *

TESTIMONY
OF
BROUGHTON H. BISHOP
CHAIRMAN
PENDLETON WOOLEN MILLS

BEFORE THE IMPORT HEARING
CONDUCTED BY
SENATOR ROBERT W. PACKWOOD
PORTLAND, OREGON

In support of
H.R. 18970
The Trade Act of 1970

September 4, 1970

9-4-70

Senator Packwood:

My name is Broughton Bishop. I appear here today as a member of the textile-apparel industry of our state which accounts for approximately 3,000 - 4,000 jobs exclusive of a significant number of apparel fiber producers whose major source of income is derived from raising sheep. I am Chairman and Treasurer of the Pendleton Woolen Mills whose main office is located at 218 S. W. Jefferson Street in Portland.

Our remarks are directed to legislation presently before Congress in the form of H.R. 18970, "The Trade Act of 1970". This bill affects the textile-apparel industry of the entire United States which provides 2.4 mm jobs amounting to 1 out of 8 industrial jobs and is therefore of significant concern to our entire national picture in terms of both social and economic well being. A significant amount of Oregon is also involved, and our local industry is affected in direct proportion to the nationwide industry.

We have been appalled by the bias that has been displayed in our local newspapers concerning this legislation and the apparent wide lack of understanding of the basic facts connected with the immensely important economic issues that are involved.

Therefore, we would like to preface our remarks with a few general comments on some of the basic theories:

1. The textile-apparel industry of the United States is the most efficient in terms of production-per-man-hour of the entire world. It is even three times as efficient as Japan.

Even without foreign competition, the industry is probably the most competitive of any in our country because there are no dominant companies, no national union monopolies, and no government subsidies.

2. It is seldom, if ever, recognized by editorials in the press that this industry requires, has always required, and in fact has always had tariff and/or quota protection in order to exist. Textile-apparel products are labor intensive, and great advantages in efficiency cannot possibly offset wage disadvantages up to 10-to-1, or even 25-to-1 in the case of South Korea today. Nothing illustrates the wage-disadvantage factor more graphically than comparing the 7¢ - 13¢ hourly wage in South Korea to our cost of Social Security alone that will amount to 25¢ - 30¢ an hour with the increase effective January 1st, 1971.

   We might also point out that the recent payroll tax imposed upon local employers by the Tri-Met Transportation District amounts to about 1-1/4¢ per hour in manufacturing costs to us, and this is about 12-1/2% of the total hourly wage paid in South Korea.

3. These facts have been well documented time and time again in testimony before Congress, but there actually is very little understanding of what this competition looks like in human terms. Japanese textile plants contain machinery

and equipment that is comparable to our own, but the work force in these plants is about three times as large. For all practical purposes, this means that we are actually just plain working harder!

Japanese plants are staffed primarily with girls from 15 to 21 years of age that are recruited from the countryside and live in dormitories on mill property. It has to be seen to be believed: entire mills run primarily by an army of girls and young women all dressed in uniform like Girl Scouts. Working conditions are good, but the arrangement would be contrary to the laws of this country.

We, obviously, are production-oriented but we can't believe that even the free-trade theorists could justify exposing jobs in this country to competition on these terms without attempting to maintain some balance. We certainly are going to be faced with the same thing in more fields than textiles and apparel. Where are we going to get 2.4 mm other jobs, particularly 2.4 mm other jobs for our own less-skilled?

4. Even though quotas as a trade-regulating device seem to be a great issue in the minds of opponents to the subject legislation, this appears to be founded primarily on emotion, and it is seldom if ever recognized that world trade in the present cotton segment of textiles-apparel rests on voluntary international quota agreements. Therefore, H.R. 18970 not

only is not proposing regulating devices where regulating devices do not exist, it also is not proposing a new type of device that does not already exist. The legislation does propose that the present approach be updated to meet conditions as they exist today.

We might point out that as a supplement to tariffs, quotas are an effective tool in attaining intelligent trade balance. They provide flexibility which is necessary to insure that even the poorest of countries has access to our markets. They also provide a more comprehensive approach to dealing with broad product categories, whereas tariffs apply specific duty rates to specific products, resulting in unnecessary loopholes and confusion.

5. In reply to letters that we've written to the Oregonian, we've received suggestions that we move our plants and jobs to other countries, as others have and are doing. Is this the solution to be proposed by Congress?

Senator Packwood, we have no faith whatsoever in high-ranking government officials analyzing our economic problems with any intelligence. A story in the Journal on August 25 emanating from Washington is a case in point, and we quote in its entirety:

> A member of President Nixon's Council of Economic Advisors has suggested some American clothing workers would be better off in another industry.

9-4-70

> In a speech critical of pending legislation that would impose textile and other quotas, Hendrik S. Houthakker said "it is simply not true"(that)the United States is facing a crisis situation that threatens domestic employment due to a flood of imports.
>
> "There is no basis for the belief that free trade must be unfair to us because wage rates are so much higher than those of other countries", he said. Houthakker made the remarks in San Francisco Monday but a text was released here (in Washington, D.C.).
>
> Saying that America's aircraft industries pay higher wages than similar industries elsewhere and dominate the world market despite large government subsidies in other countries, Houthakker added the textile and shoe industries "may well be at a disadvantage because of wages they have to pay in order to retain workers." Houthakker added that this "indicates that American workers can be more productively employed in other industries".
>
> He said the textile industry provides South Korea's "most productive employment".
>
> "It is therefore to the advantage of both countries if more American workers get out of textiles and more South Korean workers get into them," he said.
>
> The economist said the government has tried, without success, to negotiate voluntary controls on shipments to the United States of textiles and clothing from Japan, Taiwan, South Korea and Hong Kong.

It's utter nonsense to suggest that the aircraft industry can absorb 2.4 mm textile-apparel employees. Mr. Hendrik S. Houthakker should visit Boeing in Seattle on his next trip to the West Coast. He also should get his facts straight on the economics of the aircraft industry. Has there been any industry in recent years more heavily subsidized by the Federal Government through defense purchasing?

Hendrik Houthakker says that American textile-apparel workers can be more productively employed in other industries. Mr. Houthakker should do a little studying on the effectiveness of other Federal agencies who are spending millions and millions of dollars attempting unsuccessfully to find these other industries.

As part of our testimony, we are submitting a copy of the Testimony of Morton H. Darman on behalf of the National Association of Wool Manufacturers, the Boston Wool Trade Association, and the National Wool Growers Association before the House Ways and Means Committee on May 20th, 1970. Following is an outline of some of the points made by Mr. Darman:

1. Mr. Darman explained that imports of wool textiles and apparel now exceed one-third of United States' production (more than twice the level existing as recently as 1961) and that these imports of wool alone in 1969 contributed $391.5 million to this country's balance of trade deficit.
2. Mr. Darman told of the efforts of the Administration to reach a comprehensive solution to the textile-import problem through negotiation, primarily with the Japanese, and that the complete failure of all such attempts clearly indicated that Congress would have to initiate action if any action was to be taken.
3. Mr. Darman stressed that the proposed legislation provides for negotiated agreements, but that this fact is consistently glossed over and completely ignored by its opponents.
4. Mr. Darman also explained that the United States' textile-import policies have been, and under the proposed legislation would remain, so generous relative to those of other GATT members that "retaliation" and "compensation" can surely be avoided by vigorous presentation of the American case to our trading partners. He pointed out that"there is a distinction, in practice, between violating the rules of the GATT and invoking its provisions with respect to retaliation and compensation. Retaliation and compensation enter (the picture) when the value of the concessions granted a party has been nullified or impaired by the illegal action taken. This

> is to say, the GATT has not authorized retaliation or called for compensation unless the action in question has had an adverse effect on the trade of the complaining country, since, as a practical matter, it would be impossible to assess the amount of compensation or retaliation in the absence of trade effects.
>
> "It is only if the import quota has the effect of impairing the value of a tariff concession - if the trade flows involved were adversely affected - that there would be a basis for a material grievance.
>
> "Since what is contemplated is the negotiation of agreements under which some growth in imports would be allowed if growth occurs in the United States market, the United States Government would have a strong basis, both in GATT law and practice, to defend against any action by the Contracting Parties calling for compensation and retaliation."

Also as part of our presentation to you today, we are submitting a copy of the Statement of Maurice H. Stans, Secretary of Commerce, before the House Ways and Means Committee on May 12, 1970. Secretary Stans described the negotiations that he had attempted unsuccessfully to work for international agreements, but also summed up the Administration's position on the textile-import problem that can be briefly summarized as follows:

1. The textile and apparel industry makes a major contribution to the economic health and well-being of the country: direct employment for 2.4 mm workers plus many hundreds of thousands in related service industries, as well as major employment of minority workers, of women, and of the underskilled.
2. The decline in employment in the textile-apparel industry is of major proportions.
3. In 1962, imports of wool and man-made textile fiber products amounted to 0.3 billion square yards; in 1969 this had grown sevenfold to 2.0 billion square yards; and the rate was continuing to climb in 1970.
4. A major factor in the deterioration of our foreign-trade balance in textiles and apparel, reaching a deficit of almost $1.0 billion in 1969, is the existence of agreements and other unilateral measures

by which other countries restrict access to their markets for the same products. While the United States took 20% of Japan's textile-mill-products exports in 1968, the European Common Market imported only 3%. In the same year, we imported 51% of Japan's apparel exports, and the EEC took only 5%.

In short, our market has been open while others have been closed, and the impact has been considerable.

5. Due to the fact that all countries have access to modern technology in methods and equipment, the wage differential between the United States and foreign manufacturers provides the crucial margin of advantage which enables foreign goods to move heavily into the U. S. market.

For additional facts concerning the textile-apparel trade problem we are also submitting similar testimony by Mr. Donald F. McCullough on behalf of the American Textile Manufacturers Institute and others, and Mr. Frederick B. Dent, Chairman of the International Trade Committee of the American Textile Manufacturers Institute. We will not take the time of this hearing to delve into these,other than to say that all the testimony presented to Congress during the past 10 or 15 years clearly justifies that a new approach be taken to trade regulation in the area of non-cotton textiles and apparel. Early in the Kennedy Administration, the step was taken for the cotton segment.

Before closing, we would add only two additional comments. We feel that this legislation can be enacted without jeopardizing other areas of Oregon's economy. Japan would not be justified in reducing their importation of logs any more than when our government set up export restrictions to protect jobs in sawmills and plywood plants. Likewise, when the chips are down, we question if Japan would follow through on its threat to reduce wheat imports. There is no economic basis on which it would be justified in doing so; and to the contrary, it would actually appear to be to Japan's disadvantage to arbitrarily shut itself off from a commodity that is so heavily subsidized by the American taxpayer.

We realize that we are not here to discuss the subject of wheat, but time and time again, we are told in our local newspapers that our wheat business represents good economics,and domestic textile-apparel production is bad economics. We will quote from a lead editorial in the Oregonian of December 4, 1967:

> Oregon agriculture is particularly vulnerable to the retaliation from other countries which would follow the fixing of severe import quotas by the U. S. Congress.
>
> That observation, made by this newspaper recently, is supported strongly by Donald M. Taylor, international marketing specialist of the Cooperative Extension Service, Oregon State University. A special issue of "Trade", the Service's bulletin, emphasizes the danger of the protectionist movement in Congress which threatens to defeat the achievements of the Kennedy Round of negotiations which resulted a few months ago in reduced tariffs.
>
> Mr. Taylor points out that about 85 per cent of the wheat grown in the Pacific Northwest is exported. Almost 70 per cent of Oregon's agricultural exports are in wheat. The United States last year sold more than 82 million bushels of wheat, valued at $138 million, to Japan which is the United States' largest cash customer for farm products.

We heard Donald Taylor expound on this subject at a foreign-trade symposium sponsored by the Portland Chamber of Commerce soon after this editorial appeared. Nowhere did he point out the other side of the coin on the wheat business, and although we sympathize with the wheat farmers who insist that they have a right to survive and to a decent income, we textile people find it hard to remain silent while wheat interests attack our objective as being economically unsound.

Wheat farmers in this country benefit at every turn from Federal intervention financed by the taxpayer in both the domestic and international wheat markets. At home, Government agencies regulate the acreage which can be devoted to wheat, in order to insure that excessive competition does not drive down the price of wheat. Such practices are against the law in our industry.

Wheat farmers who cooperate with Government acreage programs receive a virtual guarantee that they can sell their production at prices near parity. Moreover, according to the Commodity Credit Corporation, direct Federal subsidies to the wheat industry in fiscal 1968 came to $345.8 million.

Naturally, the direct consequence of these programs is that American wheat cannot compete on the world market without export subsidies which came to an additional $51.5 million in fiscal '68.

According to the International Wheat Council, fully 62% of 1967-1968 wheat exports took place under U. S. Government export programs of various kinds, at an additional cost to the taxpayer. In other words, the American wheat farmers do not seem to object to the use of public power in the defense of their own interests.

The textile industry, however, does not ask for production limitations, guaranteed markets and prices, export subsidies, etc. We will take our chances with competition, provided the rules are fair. This is the crux of the problem: the rules aren't fair. We are asked to compete freely with as low as 8¢-per-hour labor in the Far East.

It is obviously a case of intellectual dishonesty to point to our wheat industry as being economically good on the one hand, and the textile-apparel industry as being economically bad on the other.

We would finally close in stating that our industry today represents one of the most modern and highly competitive industries in the entire country, and brushing it aside on the basis of the usual doctrinaire theory of free trade would be an absurdity.

* * * * *

STATEMENT OF WILLIAM C. NORRIS, CHAIRMAN EMERITUS, CONTROL DATA CORP., MINNEAPOLIS, MN

Mr. NORRIS. Thank you, Mr. Chairman. I am chairman emeritus of Control Data Corp. I am here to urge the committee to recognize in the pending trade enhancement legislation the influence of technology flows on U.S. global competitiveness, and this can be accomplished in title IV of Senate 1860—negotiating authority for trade agreements—by establishing the goal of equity of the flow of technology as a priority negotiating objective for the United States in multilateral and bilateral trade talks.

Senators Chafee, Bentsen, and others have proposed provisions in their new bill—the Technology Transfer and Intellectual Property Act—which would authorize the U.S. Trade Representative to negotiate agreements to eliminate foreign barriers and practices and other factors which deny Americans the same access to basic research and technology that foreigners enjoy in the United States. And I strongly support the Chafee-Bentsen bill.

Inequities in the flow of technology adversely affect trade balances because technology is a precursor of trade. A gap in technology flow with Japan in the 1970's underlies a trade gap in the 1980's, and a technology gap in the 1980's will perpetuate the trade gap in the 1990's.

For too many years America has been providing other countries virtually unlimited access to our technology, but we are not accorded similar opportunities. And this unequal flow of technology or knowhow—what I call a one-way street syndrome—must stop.

Specifically, with respect to Japan, studies indicate that in the 1980–83 time period, the Japanese enjoyed a 5-to-1 advantage over the United States in electronics technology exchange and a 7-to-1 advantage in machine tool technology. The United States is no longer self-sufficient in technology, and our comparative advantage in technology which has been the key to our global competitiveness in many industries, is eroding.

A partial list of reasons for the imbalance in technology flow between the United States and Japan includes: much of Japan's research is carried out in government laboratories and private companies whose laboratories are closed to foreigners. United States companies cannot participate in R&D projects involving Japanese Government funding, and for the most part, do not have access to patents held by the Japanese Government. Small United States companies are a major source of technology for Japan.

The United States does not have similar opportunities in Japan. Japan is not performing its fair share of the basic research to add to the world's store of knowledge; yet Japan has virtually unlimited access to our research.

Simply, the United States must recognize the seriousness of the adverse effects of the inequality in technology flow and resolve to eliminate it. And I strongly support Senator Chafee's initiative in introducing legislation to establish equitable access to technology as a priority negotiation objective for bilateral and multilateral trade talks.

Thank you.

The CHAIRMAN. Thank you, sir. Mr. Moore.

Mr. **Moore**. Mr. Chairman, I would like to ask your permission to have Mr. Nehmer precede me with his presentation.

The **Chairman**. That is fine. Mr. Nehmer, go right ahead.

[The prepared written statement of Mr. Norris follows:]

STATEMENT OF WILLIAM C. NORRIS, CHAIRMAN EMERITUS, CONTROL DATA CORP.

MR. CHAIRMAN, MY NAME IS WILLIAM C. NORRIS, AND I AM CHAIRMAN EMERITUS OF CONTROL DATA CORPORATION, HEADQUARTERED IN MINNEAPOLIS. I APPRECIATE THE OPPORTUNITY TO APPEAR TODAY TO PRESENT TESTIMONY ON THE NEW ROUND OF MULTILATERAL TRADE NEGOTIATIONS, AND SPECIFICALLY TO ADDRESS THE ISSUE OF APPROPRIATE U.S. NEGOTIATING OBJECTIVES.

MY PURPOSE TODAY IS EASILY STATED: TO URGE THE COMMITTEE TO RECOGNIZE IN THE PENDING TRADE ENHANCEMENT LEGISLATION THE INFLUENCE OF TECHNOLOGY FLOWS ON U.S. GLOBAL COMPETITIVENESS. THIS CAN BE ACCOMPLISHED IN TITLE IV OF S. 1860 -- "NEGOTIATING AUTHORITY FOR TRADE AGREEMENTS" -- BY ESTABLISHING THE GOAL OF EQUITY IN THE FLOW OF TECHNOLOGY AS A PRIORITY NEGOTIATING OBJECTIVE OF THE U.S. IN MULTILATERAL AND BILATERAL TRADE TALKS.

SENATORS CHAFEE AND BENTSEN AND OTHERS HAVE SUCH A PROVISION IN THEIR NEW BILL -- THE TECHNOLOGY TRANSFER AND INTELLECTUAL PROPERTY PROTECTION ACT -- WHICH WOULD AUTHORIZE THE USTR TO NEGOTIATE AGREEMENTS TO ELIMINATE FOREIGN BARRIERS AND PRACTICES WHICH DENY AMERICANS THE SAME ACCESS TO BASIC RESEARCH AND TECHNOLOGY THAT FOREIGNERS ENJOY IN THE U.S. I STRONGLY SUPPORT THE CHAFEE-BENTSEN BILL.

MR. CHAIRMAN, THE COMPETITIVENESS OF THE UNITED STATES IS ERODING IN MANY MARKETS. ONE OF THE MAJOR CAUSES IS THE MISMANAGEMENT OF TECHNOLOGY. ONE MANIFESTATION IS THE INEQUITIES IN THE FLOW OF TECHNOLOGY BETWEEN THE U.S. AND OTHER COUNTRIES, ESPECIALLY JAPAN.

INEQUITIES IN THE FLOW OF TECHNOLOGY ADVERSELY AFFECT TRADE BALANCES. A GAP IN TECHNOLOGY FLOW WITH JAPAN IN THE 70's UNDERLIES A TRADE GAP IN THE 80's AND A TECHNOLOGY GAP IN THE 80's WILL PERPETUATE THE TRADE GAP IN THE 90's. FOR TOO MANY YEARS, AMERICA HAS BEEN PROVIDING OTHER COUNTRIES WITH VIRTUALLY UNLIMITED ACCESS TO OUR TECHNOLOGY. WE ARE NOT ACCORDED SIMILAR OPPORTUNITIES. THIS UNEQUAL FLOW OF TECHNICAL KNOW-HOW -- WHAT I CALL THE "ONE-WAY STREET" SYNDROME -- MUST STOP.

SPECIFICALLY, WITH RESPECT TO JAPAN, STUDIES INDICATE THAT IN THE 1980-1983 TIME PERIOD, THE JAPANESE HAVE ENJOYED A FIVE TO ONE ADVANTAGE OVER THE U.S. IN ELECTRONICS TECHNOLOGY EXCHANGE AND A SEVEN TO ONE ADVANTAGE IN MACHINE TOOLS. IN OTHER WORDS, DURING THAT PERIOD, THE U.S. HAS TRANSFERRED FIVE TIMES AS MUCH ELECTRONICS TECHNOLOGY TO JAPAN AS IT ACQUIRED FROM JAPAN. FURTHERMORE, FULLY 70% OF JAPAN'S WORLDWIDE TECHNOLOGY IMPORTS HAVE COME FROM THE U.S -- THEY DEPEND HEAVILY ON THE U.S. FOR THE LEADING EDGE TECHNOLOGY INCORPORATED IN THEIR EXPORTS TO THE U.S.

A CONTINUING GAP IN TRADE WILL SURELY LEAD TO INCREASED PROTECTIONISM WHICH HASN'T WORKED IN THE PAST. ADDRESSING TECHNOLOGY FLOW INEQUITIES TODAY CAN PROVIDE A NON-PROTECTIONIST WAY TO IMPROVE OUR LONGER TERM TRADE BALANCES. THIS IS SURELY A MORE ATTRACTIVE ALTERNATIVE.

I CAN'T THINK OF A MORE IMPORTANT ISSUE THAN THE THREAT TO THE NATION'S ECONOMIC HEALTH CAUSED BY OUR STEADILY ERODING COMPETITIVE

POSITION IN WORLD MARKETS. OVERSTATING ITS SERIOUSNESS IS DIFFICULT, CONSIDERING THAT OVER 70% OF THE U.S. DOMESTIC MARKET IS OPEN TO FOREIGN COMPETITION. THE PLAIN TRUTH IS THAT THE U.S. IS IN A GLOBAL STRUGGLE AND THE COMPETITION IS FIERCE.

BUT I DON'T WANT TO FOCUS MY REMARKS THIS MORNING ON THE ISSUE OF TRADE IN GOODS AND SERVICES. AS IMPORTANT AS THIS ISSUE IS, IT IS ONLY A SYMPTOM OF THE ROOT PROBLEM, WHICH TO A CONSIDERABLE EXTENT, IS RELATED TO INEFFICIENT AND, AT TIMES, INEPT MANAGMENT OF OUR TECHNOLOGY.

OUR ONCE DOMINANT POSITION IN TECHNOLOGY HAS BEEN DETERIORATING FOR MANY YEARS AS OTHER COUNTRIES, ESPECIALLY JAPAN, HAVE TAKEN A NUMBER OF STEPS TO ACCELERATE THEIR DEVELOPMENT AND APPLICATION OF ADVANCED TECHNOLOGY. BROADLY SPEAKING, OUR FOREIGN COMPETITORS HAVE GREATLY ACCELERATED RESEARCH AND DEVELOPMENT, DRAMATICALLY INCREASED THE NUMBER OF TRAINED SCIENTIFIC AND TECHNICAL PERSONNEL, REDUCED NEEDLESS AND WASTEFUL DUPLICATION OF TECHNOLOGY DEVELOPMENT, FOSTERED GROWTH IN CAREFULLY TARGETED INDUSTRIES AND LOWERED THE COST OF CAPITAL IN THOSE AREAS.

CLEARLY, THE GREATEST PROGRESS IN ADVANCING AND EXPLOITING TECHNOLOGY HAS BEEN MADE BY JAPAN IN TARGETED INDUSTRIES WHERE THE JAPANESE GOVERNMENT HAS PROMOTED COOPERATION AMONG INDUSTRY MEMBERS AT THE BASE TECHNOLOGY LEVEL AS A KEY INGREDIENT FOR SUCCESS.

AUTOMOBILE, STEEL, SHIPBUILDING AND CONSUMER ELECTRONICS WERE THE PRINCIPAL JAPANESE INDUSTRIES TARGETED FOR DEVELOPMENT IN THE GENERATION AFTER WORLD WAR II, AND THEIR SUCCESS IS WIDELY EVIDENT.

MICROELECTRONICS, COMPUTERS, ELECTRONIC INSTRUMENTS, LASERS, OPTICAL COMMUNICATIONS, ROBOTICS, BIOTECHNOLOGY, TELECOMMUNICATIONS AND AEROSPACE ARE AMONG THEIR CURRENT TARGETS; AND IF THESE INDUSTRIES GO THE WAY OF AUTOMOBILES, STEEL, SHIPBUILDING AND CONSUMER ELECTRONICS, THE ECONOMIC CONSEQUENCES, PARTICULARLY IN LOSS OF JOBS, WOULD BE DISASTROUS.

MR. CHAIRMAN, THE U.S. IS NO LONGER SELF SUFFICIENT IN TECHNOLOGY, AND OUR INTERNATIONAL COMPARATIVE ADVANTAGE IN TECHNOLOGY -- WHICH HAS BEEN THE KEY TO OUR GLOBAL COMPETITIVENESS IN MANY INDUSTRIES -- IS ERODING.

THIS OBSERVATION IS BORN OUT BY A NEW REPORT FROM A RESEARCH COUNCIL PANEL, WHICH FOUND THAT JAPAN HAS ALREADY ACHIEVED TECHNOLOGICAL PARITY, OR EVEN SUPERIORITY, IN SEVERAL FIELDS THAT WILL BE ESSENTIAL FOR PROCESSING ELECTRONIC MATERIALS IN THE FUTURE. DURING THE PAST FIVE YEARS, THE PANEL FOUND, "THE OVERALL COMPETITIVENESS OF THE UNITED STATES IN ELECTRONICS HAS WORSENED DRAMATICALLY RELATIVE TO JAPAN." THE REPORT WENT ON TO WARN THAT UNLESS THIS TREND IS REVERSED, "THE UNITED STATES COULD BECOME DEPENDENT ON OTHERS FOR THE ADVANCED ELECTRONIC DEVICES THAT FUEL COMPUTER TECHNOLOGY, THE COMMUNICATIONS INDUSTRY, AND ADVANCED DEFENSE SYSTEMS."

ALSO, THE REPORT OF THE PRESIDENT'S COMMISSION ON INDUSTRIAL COMPETITIVENESS PROVIDES A GOOD PERSPECTIVE OF THE FOREIGN COMPETITIVE CHALLENGE WHICH CUTS ACROSS THE BREADTH OF AMERICAN INDUSTRY. IT CONCLUDED THAT AMERICAN INDUSTRY'S ABILITY TO COMPETE IS ERODING. IN INDUSTRY AFTER INDUSTRY, WE ARE LOSING WORLD MARKET SHARE. EVEN IN HIGH TECHNOLOGY INDUSTRIES, WE HAVE LOST MARKET SHARE IN SEVEN OUT OF TEN SECTORS. ELECTRONICS POSTED AN OVERALL TRADE DEFICIT WITH JAPAN IN 1984 FOR THE FIRST TIME AND WORSENED LAST YEAR WHEN IT SURPASSED OUR DEFICIT IN AUTOMOBILES.

LOSS OF MARKET LEADERSHIP IN HIGH TECH INDUSTRIES REDUCES TRADE AND JOBS IN HIGH TECH COMPANIES. ITS ADVERSE EFFECTS ARE ALSO FELT WIDELY IN OTHER SECTORS BECAUSE HIGH TECH PRODUCTS, SUCH AS ELECTRONIC EQUIPMENT, ARE USED TO IMPROVE THE PERFORMANCE, COST AND QUALITY OF PRODUCTS, PROCESSES AND SERVICES IN OTHER INDUSTRIES. HENCE, OTHER INDUSTRIES CAN BE AT A SEVERE COMPETITIVE DISADVANTAGE IF THEY DO NOT HAVE THE SAME ACCESS TO THE MOST ADVANCED HIGH TECH PRODUCTS AS THEIR FOREIGN COMPETITORS.

CLEARLY, WE NEED TO EXPAND U.S. INDUSTRIAL INNOVATION ON AN UNPRECEDENTED SCALE TO MEET THIS SERIOUS CHALLENGE. LET US RECALL THAT INDUSTRIAL INNOVATION IS THE PROCESS OF CREATING AND UTILIZING TECHNOLOGY TO CREATE NEW PRODUCTS, SERVICES AND PROCESSES OR TO MAKE IMPROVEMENTS IN EXISTING ONES AND BRING THEM TO MARKET. THE TOTAL INDUSTRIAL INNOVATION PROCESS STARTS WITH RESEARCH AND IS FOLLOWED BY DEVELOPMENT, MANUFACTURING AND MARKETING.

IN ADDITION TO SUCH AN ALL OUT EFFORT, THE GOVERNMENT MUST MOVE AGGRESSIVELY TO ELIMINATE THE HUGE DISPARITY IN TECHNOLOGY FLOWS, BETWEEN THE U.S. AND OUR TRADING PARTNERS, WHICH IS A MAJOR FACTOR IN THE TRADE GAP BETWEEN THE U.S. AND JAPAN. THE PRESIDENT'S COMMISSION ON INDUSTRIAL COMPETITIVENESS ALSO ADDRESSED THIS ISSUE AND CONCLUDED THAT "A GLARING ASYMMETRY" CHARACTERIZES THE INTERNATIONAL FLOW OF TECHNOLOGICAL KNOWLEDGE AND THAT THE FLOW HAS BEEN PREPONDERANTLY "OUT FROM THE U.S."

I CAN ASSURE THE COMMITTEE THAT THIS TECHNOLOGY OUTFLOW MOST ASSUREDLY "BOOMERANGS" BACK TO THE U.S. IN THE FORM OF LOWER-PRICED IMPORTS.

FOR TOO LONG, VERY LITTLE ATTENTION WAS GIVEN TO THIS ENORMOUS DISPARITY IN TECHNOLOGY FLOWS. BUT THERE IS A GROWING AWARENESS THAT IT IS A MAJOR FACTOR IN THE TRADE GAP BETWEEN THE U.S. AND JAPAN AND WITH OTHER NATIONS AS WELL, AND THAT CORRECTIVE ACTION MUST BE TAKEN. WE COULD SOON BE DELUGED WITH IMPORTS FROM A NUMBER OF COUNTRIES WHICH ESSENTIALLY EMBODY U.S. TECHNOLOGY.

A PARTIAL LIST OF REASONS FOR THE IMBALANCE IN TECHNOLOGY FLOW BETWEEN THE U.S. AND JAPAN INCLUDES:

(1) MUCH OF JAPAN'S RESEARCH IS CARRIED OUT IN GOVERNMENT LABORATORIES AND PRIVATE COMPANIES, WHOSE LABORATORIES ARE CLOSED TO FOREIGNERS.

(2) U.S. COMPANIES CANNOT PARTICIPATE IN R&D PROJECTS INVOLVING JAPANESE GOVERNMENT FUNDING AND, FOR THE MOST PART, DO NOT HAVE ACCESS TO PATENTS HELD BY THE JAPANESE GOVERNMENT.

(3) SMALL U.S. COMPANIES ARE A MAJOR SOURCE OF TECHNOLOGY FOR JAPAN. THESE TECHNOLOGIES, OFTEN LEADING EDGE, ARE OBTAINED BY THE JAPANESE THROUGH ONE OF THREE METHODS: LICENSING, EQUITY INVESTMENT OR ACQUISITION OF THE TOTAL COMPANY. THE U.S. DOES NOT HAVE SIMILAR OPPORTUNITIES IN JAPAN.

(4) JAPAN IS NOT PERFORMING ITS FAIR SHARE OF THE BASIC RESEARCH TO ADD TO THE WORLD'S STORE OF KNOWLEDGE, YET JAPAN HAS VIRTUALLY UNLIMITED ACCESS TO U.S. RESEARCH.

(5) THE JAPANESE SEND THEIR BEST GRADUATE STUDENTS TO THE U.S. TO OBTAIN PH.D.'s. IN MANY INSTANCES, THE U.S. PROVIDES PARTIAL SUPPORT FOR THEM.

(6) U.S. BUSINESSMEN AND TECHNOLOGISTS HAVE FREQUENTLY IGNORED FOREIGN TECHNOLOGY IN THE ARROGANT BELIEF THAT LITTLE OF USE IS CREATED OVERSEAS.

THIS LITANY ON IMBALANCE ADDS UP TO BOTH A "CHEAP RIDE" BY JAPAN ON THE U.S. TECHNOLOGY SYSTEM AND, AS NOTED EARLIER, A MAJOR FACTOR IN THE TRADE GAP.

CORRECTIVE ACTION

WHAT'S TO BE DONE? THE U.S. MUST RECOGNIZE THE SERIOUSNESS OF THE ADVERSE EFFECTS OF THE INEQUALITY IN TECHNOLOGY FLOW AND RESOLVE TO ELIMINATE THEM. I STRONGLY SUPPORT THE CHAFEE-BENTSEN INITIATIVE IN INTRODUCING LEGISLATION TO ESTABLISH EQUITABLE ACCESS TO TECHNOLOGY AS A PRIORITY NEGOTIATING OBJECTIVE FOR BILATERAL AND MULTILATERAL TRADE TALKS. THEIR PROPOSAL -- THE TECHNOLOGY TRANSFER AND INTELLECTUAL PROPERTY ACT -- CALLS FOR THE ELIMINATION OF POLICIES AND PRACTICES WHICH DENY EQUITABLE ACCESS BY UNITED STATES PERSONS TO FOREIGN TECHNOLOGY OR CONTRIBUTE TO THE INEQUITABLE FLOW OF TECHNOLOGY BETWEEN THE U.S. AND ITS TRADING PARTNERS.

THE ESSENTIAL THRUST OF THIS SECTION IS TO PUT TECHNOLOGY ACCESS ON THE SAME PLANE AS MARKET ACCESS. I URGE THE COMMITTEE TO INCLUDE THE LANGUAGE OF THE CHAFEE-BENTSEN BILL IN THE TRADE ENHANCEMENT LEGISLATION NOW BEFORE THE COMMITTEE AND SPECIFICALLY IN THE TITLE AUTHORIZING A NEW ROUND OF TRADE NEGOTIATIONS.

I BELIEVE THAT IF THE U.S. CAN ESTABLISH A MORE EQUITABLE FLOW OF TECHNOLOGY WITH JAPAN AND OTHER COUNTRIES, THEN A MORE BALANCED TRADE FLOW WILL FOLLOW, ACCOMPANIED BY A GREATLY EXPANDED RANGE OF NEW PRODUCTS AND SERVICES.

MOREOVER, PUTTING AN EQUITABLE FLOW OF TECHNOLOGY ON THE NEGOTIATING TABLE WOULD PERMIT FLEXIBILITY AND FACILITATE CONSTRUCTIVE

APPROACHES TO THE PROBLEM, INCLUDING NEW PROGRAMS IN COOPERATIVE TECHNOLOGY DEVELOPMENT.

THERE IS A GREAT DEAL MORE TO BE SAID ABOUT THE CRITICALLY IMPORTANT ISSUE OF EQUITABLE TECHNOLOGY FLOW; HOWEVER, I WILL ONLY MAKE TWO MORE POINTS.

ONE IS THAT JAPAN'S SCIENCE AND TECHNOLOGY AGENCY RECENTLY RECOMMENDED LEGISLATION TO MAKE TECHNOLOGY DEVELOPED IN GOVERNMENT LABORATORIES MORE ACCESSIBLE TO FOREIGNERS. IF PASSED AND IMPLEMENTED PROMPTLY, THERE COULD BE A SIGNIFICANT IMPROVEMENT IN THE ACCESSIBILITY OF JAPANESE GOVERNMENT TECHNOLOGY. HOWEVER, JAPAN IS NOTORIOUS FOR ENACTING LEGISLATION LIBERALIZING TRADE REGULATIONS AND THEN DELAYING IMPLEMENTATION FOR YEARS IN ONE WAY OR ANOTHER. AS A CONSEQUENCE, THEIR NUMEROUS MARKET OPENING INITIATIVES HAVE PRODUCED FEW MEANINGFUL RESULTS IN TERMS OF EXPANDING EXPORTS. IN ANY EVENT, INTRODUCTION OF THE LEGISLATION INDICATES RECOGNITION OF THE NEED TO INCREASE ACCESSIBILITY OF GOVERNMENT TECHNOLOGY WHICH IS A POSITIVE STEP. THUS, IT BEHOOVES THE U.S. TO STRONGLY ENCOURAGE PASSAGE AND COMPLIANCE.

THE SECOND POINT IS SIMPLY A REMINDER THAT ONE OF THE REASONS FOR THE TRADE IMBALANCE BETWEEN THE U.S. AND JAPAN IS OUR FAILURE TO MANAGE TECHNOLOGY AS EFFICIENTLY AS THE JAPANESE, IN LARGE PART DUE TO THE MUCH LOWER LEVEL OF TECHNOLOGICAL COOPERATION WITHIN INDUSTRY AND AMONG INDUSTRY, GOVERNMENT AND ACADEMIA IN THIS COUNTRY, AND

IGNORING SERIOUS INEQUITIES IN TECHNOLOGY FLOWS BETWEEN THE U.S. AND OTHER COUNTRIES. ANOTHER REASON IS THAT WE HAVE NOT BEEN AS DILIGENT IN SEEKING OUT POTENTIALLY AVAILABLE TECHNOLOGY IN JAPAN AS WE SHOULD HAVE BEEN EVEN THOUGH THERE ARE LEGAL, LANGUAGE AND OTHER CULTURAL BARRIERS.

CONCLUSION

LET ME CONCLUDE BY NOTING ONCE AGAIN THAT THE U.S. MUST MOVE RAPIDLY TOWARD ACHIEVING EQUITABLE FLOWS OF TECHNOLOGY WITH OTHER COUNTRIES, ESPECIALLY JAPAN. FEW ACTIONS ARE MORE IMPORTANT FOR IMPROVING U.S. COMPETITIVENESS. THANK YOU.

STATEMENT OF STANLEY NEHMER, PRESIDENT, ECONOMIC CONSULTING SERVICES INC., AND CONSULTANT, AMERICAN FIBER, TEXTILE, APPAREL COALITION, WASHINGTON, DC

Mr. **Nehmer**. Thank you, Mr. Chairman. For the record, my name is Stanley Nehmer. Mr. Moore and I are here on behalf of 8 coalitions encompassing 30 separate trade associations and labor unions. The industries represented by these organizations are located throughout the United States. The names are included in our statement. Sitting directly behind Mr. Moore and myself are representatives, of five of these organizations: Mitchell Cooper from the Rubber Manufacturers Association, Footwear Division; Ms. Fawn Evenson, from Footwear Industries of America; David Hartquist, representing the Specialty Steel Industry; Frank Fenton, vice president of the American Iron & Steel Institute; and Michael Kershow, representing the Bicycle Manufacturers Association.

We oppose granting the President authority to cut tariffs in a new round of trade negotiations on import sensitive articles. Title IV of S. 1860 and S. 1865 would grant the President such authority. We take this position because of two fundamental reasons.

First, American manufacturing industries, including all of those represented by our group here today, are considerably worse off today than they were before the beginning of the Tokyo round; and the specifics, industry by industry, are included in our statement.

In aggregate terms the loss of some 900,000 jobs in manufacturing since 1980 and a trade deficit which increased from $36 to $149 billion between 1980 and 1985 certainly attest to the seriously deteriorating position of U.S. manufacturing industries in the U.S. economy. The second reason for our position is that many of these industries have already paid the price for a trading regime that has been steadily liberalized over several successive trade rounds. Our markets, among the largest and most open in the world, receive a disproportionate share of world imports particularly from the developing countries.

These, Mr. Chairman, are the same developing countries that will be the focus of a new trade round which has as its major goal the opening up of developing country markets to U.S. services and U.S. investment. And our industries understand all too well what that means.

Our recommendation, Mr. Chairman, is that import sensitive industries as measured by those which are ineligible for duty-free treatment under the Generalized System of Preferences be excluded from the possibility of tariff cuts in a new round of trade negotiations. Even with this limitation, U.S. negotiators would still have a substantial number of products on which to negotiate, and the President would have the authority he says he needs to enter into a new trade round.

At this point, I would like to now defer to Mr. Moore.

The **Chairman**. Mr. Moore.

[The prepared written statement of Mr. Nehmer follows:]

STATEMENT OF THE

American Fiber, Textile, Apparel Coalition (AFTAC)*
American Iron and Steel Institute
Bicycle Manufacturers Association of America, Inc.
Copper and Brass Fabricators Council
Lead-Zinc Producers Committee
Leather Products Coalition*
Rubber Manufacturers Assn. -- Footwear Division
Specialty Steel Industry of the United States

To Limit the President's Authority
to Cut Tariffs if a New Trade Round is Authorized

to the

Committee on Finance
United States Senate
Washington, D.C.

July 23, 1986

* Membership list included within body of statement.

This statement in opposition to granting the President unqualified tariff cutting authority on import sensitive articles is made on behalf of the following organizations:

- AMERICAN FIBER, TEXTILE, APPAREL COALITION (AFTAC)
  - Amalgamated Clothing and Textile Workers Union, AFL-CIO
  - American Apparel Manufacturers Association
  - American Textile Manufacturers Institute
  - American Yarn Spinners Association
  - Carpet and Rug Institute
  - Clothing Manufacturers Association of U.S.A.
  - Industrial Fabrics Association International
  - International Ladies' Garment Workers' Union, AFL-CIO
  - Knitted Textile Association
  - Luggage and Leather Goods Manufacturers of America
  - Man-Made Fiber Producers Association
  - National Association of Hosiery Manufacturers
  - National Association of Uniform Manufacturers
  - National Cotton Council
  - National Knitwear & Sportswear Association
  - National Knitwear Manufacturers Association
  - National Wool Growers Association
  - Neckwear Association of America
  - Northern Textile Association
  - Textile Distributors Association
  - Work Glove Manufacturers Association
- AMERICAN IRON AND STEEL INSTITUTE
- BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.
- COPPER AND BRASS FABRICATORS COUNCIL
- LEAD-ZINC PRODUCERS COMMITTEE
- LEATHER PRODUCTS COALITION
  - Amalgamated Clothing and Textile Workers Union, AFL-CIO
  - Footwear Industries of America, Inc.
  - International Leather Goods, Plastics and Novelty Workers' Union, AFL-CIO
  - Luggage and Leather Goods Manufacturers of America, Inc.
  - United Food & Commercial Workers Union, AFL-CIO
  - Work Glove Manufacturers Association
- RUBBER MANUFACTURERS ASSOCIATION - FOOTWEAR DIVISION
- SPECIALTY STEEL INDUSTRY OF THE UNITED STATES

The industries represented by these organizations are located throughout the United States. From footwear plants in Maine to nonferrous metal smelters in the Southwest; from steel mills in the Midwest to textile mills in the South; and from clothing factories in Oregon to leather products factories in Florida, these industries employ upwards of three million workers.

These organizations oppose granting the President authority to cut tariffs on import sensitive articles as part of a new round of trade negotiations. Title IV of S.1860 and S.1865 would grant the President such authority.

We take this position because of two fundamental reasons. First, American manufacturing industries, including all of the industries represented by these organizations, are considerably worse off today than they were prior to the Tokyo Round, the last round of trade negotiations, which concluded in 1979. We will address this issue on an industry-specific basis later in our statement. In aggregate terms, the loss of some 900,000 jobs in manufacturing since 1980 and the increasing trade deficit, which grew four-fold in this period to almost $150 billion in 1985, clearly attest to the seriously deteriorating position of U.S. manufacturing industries in the U.S. economy.

Second, many of these industries have already paid the price for a trading regime that has been steadily liberalized over several successive trade rounds. Our markets, among the largest and most open in the world, receive a disproportionate share of world imports, particularly from the developing countries. These are the same developing countries that will be the focus of a new trade round, which has as a major goal the opening up of developing country markets to U.S. services and U.S. investment. Our industries understand all too well what that means. The developing countries will be exacting a price for opening up their markets and that price will be improved access to our markets for their exports of textiles, apparel, footwear, steel, copper and brass fabricated products, bicycles, lead, zinc, luggage, handbags, work gloves, etc. This improved access translates into U.S. tariff reductions on items that these countries already export to us in huge quantities, often on a subsidized or dumped basis. Must we concede still more of our market to these countries in order that U.S. market-opening objectives for U.S. services and investment opportunities are met?

The industries represented here today -- and we suspect many others as well -- do not want to be used as pawns for U.S. negotiating objectives in other areas. Our tariffs should not be the price paid to open up developing country markets to the products or services of other U.S. industries. It is bad enough that our industries have been repeatedly traded off for U.S. foreign policy objectives in these countries, a situation that is becoming more and more blatant every day. The recent example of Turkey openly requesting wider access to the U.S. textile market in return for renewal of U.S.-leased military bases there only brings to light what we have long known to be the case. Continued access to the U.S. market should be sufficient reason for these countries to open their doors to our goods and services.

This access is easily measured. In 1985, $51.7 billion -- or 35 percent -- of our $149 billion trade deficit was with developing countries. In 1985 we had a $13.1 billion deficit with Taiwan, $6.2 billion with Hong Kong, $5.8 billion with Mexico, $5.0 billion with Brazil, $4.8 billion with Korea, and the list goes on. Trade in the products represented here before you today accounts for a substantial portion of these deficits. These are enormously large trade imbalances and we believe our trade negotiators should not ignore their existence. Our trade negotiators should instead tie continued access to the U.S. market to these countries' demonstrated willingness to open up their markets to more U.S. goods and services. To do otherwise is to give the developing countries a free ride while the United States and particularly our industries take it on the chin again.

Since enactment of the Reciprocal Trade Agreements Act of 1934, Congress periodically has delegated authority to the President to negotiate and to proclaim reductions in tariffs under reciprocal trade agreements, without requiring further Congressional action. The last time Congress granted this authority was as part of the Trade Act of 1974 leading to the Tokyo Round that concluded in 1979. Each round has been preceded by pronouncements by economic theorists that point to the growth in world trade stemming directly from the liberalizing effects of successive world trade rounds and in turn how this growth benefits U.S. commerce. There certainly has been an increase in the number of goods traded in the world since the last trade round; it seems, at least to these industries, that most of the increase in trade is destined for our shores. With an overall trade deficit of almost $150 billion in 1985, there are probably very few American manufacturing industries that are better off today than they were before the last trade round -- a trade round that resulted in many U.S. products receiving the maximum allowable 60 percent tariff cut, and an average of 32 percent tariff reduction on industrial products.

Great optimism has been expressed that the U.S. trade deficit will be reduced as a result of the decline in the strength of the U.S. dollar. While some imports may become less competitive because of exchange rate realignment, this is simply not the case for many of the products of concern to the organizations represented here today. Imports of many of these products will continue to increase despite the falling dollar. In particular, imports from the Newly Industrializing Countries (NICs), which supply the United States with such large volumes of imports, can be expected to continue to grow; since the currencies of so many NICs are tied to the U.S. dollar, there has not been a corresponding decline in the dollar against these currencies. Indeed, U.S. imports of many of the products in question continued to rise in the first several months of 1986.

Similar optimism has been expressed in forecasting job growth in the coming months and years. To the extent these expectations are realized, however, little benefit will accrue to the workers in the industries represented here today. Labor in many of these industries is not very mobile, for both economic and social reasons. It is unlikely to find an unemployed garment worker in New York City who can be relocated to Seattle to assemble jet aircraft; there is simply a gross mismatch of needed skills. It is also important to ask just what kind of jobs will be created in the near future. Most predictions are that these new jobs will not be in manufacturing; more likely they will be service industry jobs which on average are lower paid than manufacturing jobs. It is difficult to pin much hope on this prospect.

Considering the plight of U.S. manufacturing, we do not agree that the President needs this authority to cut tariffs; however, if it is granted at all, it should be limited to non-import sensitive items and there already exists a Government standard for making this determination.

The standard is whether or not a product is eligible for duty-free treatment under the Generalized System of Preferences (GSP) Program. If the Government had already made a determination that a product is too import sensitive to be on the GSP Preference List, either by a specific exclusion in the statute or by administrative procedure, then such product should not be subject to tariff cuts in a new trade round. It makes no economic sense to say a product is import sensitive and cannot be included in the GSP, and then cut the tariff on the same product perhaps to zero as provided under GSP. Even with this limitation, U.S. negotiators would still have a substantial number of products on which to negotiate and the President would have the authority he says he needs to enter into a new trade round.

We do not mean to suggest that just because a product is not eligible for GSP that it is not import sensitive. There are probably many products that are currently eligible for GSP that are also import sensitive and thus should not have their tariffs cut. At the very least, there should be a limit on tariff cuts on such products, a level well below that permitted in the Tokyo Round.

As currently written S.1860/S.1865 would give the President authority to cut tariffs on all products, regardless of import sensitivity, but require, unlike in past trade rounds, that such cuts come back to Congress for approval. While this may appear to be an adequate safeguard against unjustified tariff cuts on highly import sensitive products, it gives those of us who have participated in such exercises in the past little comfort. The procedure by which these cuts will be brought back to Congress affords little opportunity to redress problem areas. Such cuts are brought back with numerous other trade agreements, all bundled together, and the vote under the fast track procedures of Section 151 is either up or down, with no amendments allowed. This is not a procedure that inspires confidence on our part.

The Israeli-U.S. Free Trade Area agreement provides a good example of how this procedure actually works. Under a provision in the Israeli agreement, staging requirements on the tariff cuts were brought back to Congress for review. Despite assurances to the Congress, and specifically to Senators Mitchell, Thurmond and Warner by Ambassador Brock that tariff cuts on certain import sensitive textile and leather products would be phased in more gradually than for other products, the Administration completely ignored its commitment about a gradual staging on many textile and leather product tariffs. In fact, tariffs on some products were phased out immediately. When we protested the staging of the cuts, we were told that to change any of the staging requirements would upset the agreement and it just could not be done. Thus, provisions in S.1860/1865 for Congressional review and approval under the fast-track are not very meaningful as a safeguard for import sensitive industries.

It would be useful for the Committee to look at just what has happened to these industries since the Tokyo round tariff cuts began to be staged in 1980.

Textiles and Apparel

The U.S. textile industry has shut down ten percent of its capacity in the past five years, half of that in the past 18 months alone. The domestic apparel industry has been severely affected by imports, with imports supplying half of the U.S. apparel market last year. The result has been a worsening trade deficit in textiles and apparel, reaching $18.2 billion in 1985.

Lower production costs overseas put U.S. producers at a competitive disadvantage in their home market. Still, during the Tokyo Round of trade talks, the United States negotiated duty cuts averaging 21 percent for textile and apparel products. Additionally, actions taken by the United States under the Multifiber Arrangement have been ineffective in limiting import growth. Since 1980, U.S. textile and apparel imports have grown at a compound annual rate of 17 percent a year against domestic growth of no higher than 1 to 1.5 percent a year.

Despite the growing impact of imports, the U.S. Government is now initiating further actions to liberalize access to the U.S. textile and apparel market. A Free Trade Area agreement was signed with Israel last September; textile and apparel imports from Israel are now about double what they were a year ago. The Administration is also embarking on similar negotiations with Canada and possibly with the ASEAN countries as well. In addition, the announced Caribbean Basin Initiative "Special Access Program" would guarantee greatly increased import levels for textile and apparel products from CBI beneficiary countries.

Leather-Related Products

The situation with leather-related products is similar in many respects to that in the textile/apparel sector. There are literally dozens of low-wage foreign suppliers, predominantly the developing countries. All of the leather-related products industries have lost substantial market share due to imports since the Tokyo Round. Imports now have 60 percent of the U.S. luggage market, 36 percent of the personal leather goods market, 45 percent of the work glove market, 85 percent of the handbag market, and 66 percent of the leather wearing apparel market.

Nonrubber footwear presents a special problem. Nonrubber footwear tariffs escaped cuts during the Tokyo Round because at the time the industry was under "escape clause" relief, and Section 127(b) of the Trade Act of 1974 precludes tariff cuts under such circumstances. The industry has no such protection now because the President denied the industry relief under the "escape clause" last year despite a unanimous finding of injury from imports by the International Trade Commission. However, the industry is far more vulnerable to the damaging effects of tariff cuts today, when imports have over 80 percent of the domestic nonrubber footwear market, than in 1979, when imports had just under half of the market. This industry is not sanguine that the President would exercise restraint about cutting tariffs on its products given his response to the industry's Section 201 case last year. Moreover, this is the same Administration which several years ago sought duty elimination on shoe imports from the Caribbean, only to be reversed by Congress, and successfully fought for their elimination in the Israeli-U.S. Free Trade Area.

Tariffs are vitally important to the firms and workers in these leather-related industries. It is a fundamental reason why virtually all the products of these industries are statutorily exempt from duty-free treatment under the GSP and CBI programs.

Rubber Footwear

The U.S. rubber footwear industry is a labor-intensive, import-impacted industry. Between 1975 and 1985, rubber footwear production in this country fell by one-half from a total of 150 million pairs to 75 million pairs. During the same period, imports -- 90 percent of which were from Korea and Taiwan -- rose from 78 million pairs to 98 million pairs. Today imports take some 58 percent of the market for rubber-soled footwear with fabric uppers and some 53 percent of the market for waterproof footwear. Because of its import-sensitive nature, duties on rubber footwear were not cut in either the Kennedy or the Toyko Round.

What is left of the domestic rubber footwear industry has a fighting chance to survive if assured that its duties will not be placed at risk in a new trade negotiation. Government officials know that the situation of the rubber footwear industry has not changed for the better since the Toyko Round and they also know that a cut in rubber footwear duties will provide an incentive to imports to strike a mortal blow to a small but important domestic industry.

Carbon and Alloy Steel Industry

The domestic carbon and alloy steel industry has suffered through the worst period in its history during the past several years, during which period imports and import market share have grown substantially. During this period, the effects of the world recession on steel demand have been exacerbated in the United States by countercyclical exporting practices employed by other steel-producing countries, combined with dumping and subsidization, to alleviate the unemployment and low capacity utilization in their domestic steel industries.

These practices have made the United States an intensely competitive market for steel, with the combined price and volume effects of unfair competition causing massive injury to the domestic industry. The extent of the injury is evidenced by the billions of dollars in financial losses suffered by domestic steel companies, by the hundreds of plant closings, by the hundreds of thousands of lost jobs, by the

International Trade Commission's 1984 finding that the industry was seriously injured under Section 201 of the Trade Act of 1974, and by the President's creation of a program of bilateral export restraints with our major steel trading competitors.

Despite these measures, however, import penetration for finished steel products has so far been well above the target limit of 18.5 percent set by the President when he announced the steel program in September 1984, and competition for market share remains extremely intense. In such a climate, where sales can be won or lost based on very small differences in price, to reduce or eliminate the tariffs on imports of steel would expose domestic producers to further massive harm from imports. This would further weaken the industry's already precarious position and directly contradict the intent of the President's trade program on steel.

Specialty Steel

To remove tariffs on specialty steel imports would also run counter to public policy aimed at remedying import-related injury to the domestic industry. Moreover, it would cause additional import-related harm to an industry that already is injured by imports.

Traditionally, the United States has been the most open and unprotected market for specialty steel in the world, with considerably lower trade barriers than any other country. The decline in world demand for specialty steel in the early 1980s brought massive injury to the domestic industry, as other countries raised protectionist barriers in their home markets, and employed a variety of unfair trading practices to quickly penetrate the more open U.S. market. A series of successful dumping and countervailing duty cases brought by the U.S. industry illustrate the extent of the unfair trading practices faced by the industry.

In addition, the President in 1983 granted import relief to the industry after it had been found to be seriously injured by imports under Section 201 of the Trade Act of 1974. More recently, the President included specialty steel within the scope of his overall steel trade program, to rectify continued injury that was occurring despite the Section 201 relief and the antidumping and countervailing duties. These various relief measures, however, have not succeeded in halting injury due to unfair trade practices.

Clearly, the specialty steel industry has been and remains highly import sensitive. An industry in this position should not be denied the modicum of protection that is imparted by the normal rates of duty on competing imports. Even these relatively low duties can make a difference in determining whether a sale is lost to imports. To remove tariffs on specialty steel thus would increase the specialty steel industry's vulnerability to further injury. Such a result would fly in the face of the President's trade policy toward the specialty steel industry, particularly as the industry continues to suffer import-related injury despite the relief measures implemented to date.

Bicycles

The U.S. bicycle industry and its suppliers are suffering serious injury as a result of the dramatic escalation of imports, especially from Taiwan. For this reason, the industry opposes giving the President unrestricted authority to negotiate further reductions in U.S. tariffs.

A review of import trends since World War II clearly documents the import sensitivity of the U.S. bicycle industry. When the United States cut tariffs pursuant to the initial round of negotiations under the General Agreement on Tariffs and Trade in 1947, imports increased sharply. In 1948, the ratio of imports to apparent domestic consumption was 0.6 percent; by 1955, import penetration had increased to more than 40 percent. As as result of this surge in imports, the U.S. bicycle industry filed a successful "escape clause" case in 1954. The President increased tariffs on "lightweight" bicycles from 7.5 to 11.25 percent and on other models from 15 to 22.5 percent. The ratio of imports to consumption subsequently declined to 18 percent by 1967. During the Kennedy Round of trade negotiations, the United States agreed to reduce the existing duties on bicycles by 50 percent between 1968 and 1972. Over this period of tariff reductions, import penetration again steadily increased, reaching 37 percent in 1972.

During the Tokyo Round, bicycles were among the import-sensitive articles placed on the so-called "exceptions list" exempt from negotiated reductions; accordingly, bicycle tariffs currently stand at the 5.5 and 11 percent rates implemented in 1972. Recent import trends suggest, however, that the U.S. bicycle industry cannot afford any reduction in these modest tariff levels.

In 1983, a new import surge began that shows no signs of stopping. Imports dominated 30 percent of the market in 1983, 42 percent of domestic consumption in 1984, and a record 49 percent of the market in 1985. The major force behind this import surge has been Taiwan. If current import trends continue, import penetration could reach more than 52 percent in 1986. Imports of bicycle parts have exhibited similar trends.

Lead and Zinc

The lead and zinc industries, judging from past experience, believe that tariff cutting authority may well lead to further cuts in the already low duties on their products. These products include not only primary lead and primary zinc but also related co-products and by-products such as zinc oxide, cadmium, and sulfuric acid.

During the previous MTN round, some of the industry's products were subjected to the maximum tariff cuts allowed.

Subsequently, in a bilateral negotiation with Mexico, the duty on unalloyed lead metal was cut further in return for Mexico's anticipated agreement to accede to GATT. Mexico, however, did not accede to GATT, but the United States never snapped back the tariff. The reduced duty rates since 1979 have contributed to the difficult economic situation of the industry today. The industry's products are suffering severe import pressure. The prospects for even further import impact exist as a result of the Canadian free trade area agreement negotiations. Prices for the products are seriously depressed and many of the industry's facilities have been forced to close. Additional tariff cuts would only worsen its situation.

The industry fears that, in a new MTN round, in order for the United States to get anything, it will have to give up something, and that something would be tariff concessions, possibly yet again on the industry's products. The industry believes that it has already paid more than its fair share to promote world trade.

Copper and Brass Fabricated Products

Previous negotiations, including the Tokyo Round, have resulted in creating a virtual "open market" in the U.S. for foreign fabricators of brass mill products. With imports of brass mill products to the U.S. continuing to increase at an alarming rate, it is neither necessary from the standpoint of furthering world trade, nor prudent from the standpoint of a healthy U.S. economy, to pursue further reductions in U.S. tariffs on brass mill products.

The public record clearly shows that cumulative results of the series of multilateral trade negotiations following the GATT Agreement in 1948, have not produced "substantially equivalent competitive opportunities" in international trade for the United States brass mill industry.

Negotiating results in the Tokyo Round did nothing to significantly reduce the inequitable and competitively disadvantageous tariff disparities between U.S. tariff rates for brass mill products and their counterparts in the E.E.C., in Canada, and in Japan.

Conclusion

In summary, the industries represented here today would clearly be hurt by further duty cuts, which would make the U.S. market, with relatively few non-tariff barriers, an even more attractive market. More important, however, these tariffs, no matter how small, provide some degree of insulation against imports. To reduce these tariffs would be catastrophic to certain domestic producers and workers; duties make a substantial difference to these industries.

We think the proposal to give the President authority to cut tariffs on our products is coming at the worst possible time insofar as our particular industries are concerned. If it is granted, more plants will close, or go off-shore to compete. The bottom line will be less U.S. manufacturing jobs and less productive capacity in this country. Thus, we urge the Committee not to report a bill that would grant the President authority to cut tariffs on products not eligible for GSP treatment.

STATEMENT OF CARLOS MOORE, EXECUTIVE PRESIDENT, AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC., AND CHAIRMAN, AMERICAN FIBER, TEXTILE, APPAREL COALITION, WASHINGTON, DC

Mr. MOORE. Thank you, Mr. Chairman. My name is Carlos Moore, and I am chairman of the American Fiber, Textile, Apparel Coalition. This is made up of 21 organizations that represent industries and labor unions involved in the production of textile, fibers, fabrics, apparel, and other textile products. As you heard from Mr. Nehmer, we have joined with seven other organizations to register our opposition to tariff cutting authority on import-sensitive products as part of an upcoming GATT round of multilateral trade negotiations.

I would like to briefly explain our position. Since the Tokyo round was completed in 1979, this industry has lost 400,000 jobs. Today the industry has 1.8 million workers; in 1979, there were 2.2 million. In 1979, imports amounted to $9 billion; in 1985, they had reached $21 billion, an increase of 145 percent.

The textile-apparel trade deficit in 1979 was $5 billion. Last year it was $18 billion. Import penetration into our market has doubled, and today imports account for over half of the apparel and apparel-related products in our market.

During the 6 years since 1979, the tariff cuts negotiated in the Tokyo round were implemented. In successive stages, textile and apparel tariffs were cut about 25 percent, and further cuts will go into effect over the next few years. Now the administration is seeking authority to cut duties further, by 60 percent, or in some cases to eliminate them all together.

In response to the damage that this industry has suffered since 1979, the Congress last year passed overwhelmingly the Textile and Apparel Trade Enforcement Act, which would have provided real relief to the industry. As you know, the President vetoed that bill. So, the industry is still facing an import surge, and imports this year are up 20 percent over the record levels of last year.

Any tariff reductions on top of those already made and already scheduled to occur can only add to the damage that this industry is suffering. Yet, it is obvious that foreign governments and the administration have targeted these tariffs as bargaining chips in a new GATT round.

We do not want to be the industry to pay for the administration's objectives in this round. We paid in the last round, and we have continued to pay, while waiting for commitments to be kept to relate import growth to the growth our market. For these reasons, we oppose granting tariff cutting authority by the Congress to the administration for those items already singled out as being import-sensitive.

This includes all those which are excluded from duty-free treatment under the Generalized System of Preferences. Thank you.

The CHAIRMAN. Thank you. And Mr. Greenwald.

[The prepared written statement of Mr. Moore follows:]

STATEMENT OF
CARLOS MOORE
CHAIRMAN, AMERICAN FIBER, TEXTILE AND APPAREL COALITION

To Limit the President's Authority
to Cut Tariffs if a New Trade Round is Authorized

to the

Committee on Finance
United States Senate
Washington, D.C.

July 23, 1986

*Membership list included at end of statement.

Mr. Chairman, my name is Carlos Moore. I am chairman of the American Fiber/Textile/Apparel Coalition (AFTAC) which is comprised of some 21 organizations representing industries and labor unions involved in production of textile fibers, fabrics, apparel, and other textile products throughout the United States. I appreciate the opportunity to appear here on their behalf.

As you heard from Mr. Nehmer, we have joined with other organizations to register our opposition to granting tariff-cutting authority to import-sensitive products as part of a round of GATT Multilateral Trade Negotiations. I offer additional details as to why we oppose that grant of tariff-cutting authority.

When the Tokyo Round of Multilateral trade negotiations was over in 1979, the textile and apparel industry had 2.2 million workers. Today, the industry has 1.8 million. In 1979, textile and apparel imports amounted to $8.7 billion dollars on all fibers (or 4.6 billion square yard equivalents of cotton, wool and man-made fiberts). In 1985, imports had reached $21.3 billion (or 10.8 billion square yards equivalents of the three fibers and another 2.8 billion square yard equivalents of non-MFA, or other fiberts). This is an increase in value of 145 percent (or 135 percent in terms of three fiber square yards). The textile and apparel trade deficit in 1979 was $4.6 billion. Last year it was $18 billion, or a 300 per cent increase.

Import penetration during this period has doubled and today imports account for over half of our apparel and apparel-related products market.

Also during those 6 years, the tariff reductions negotiated during the Tokyo Round went into effect. In successive stages, tariffs on textiles and apparel have been reduced by some 25 per cent, and further duty cuts will go into effect over the next few years. It is important to note that the reductions negotiated on U.S. textiles and apparel tariffs during the Tokyo Round were not as large as cuts made on many other U.S. tariff lines. There is a very good reason for this. Prior to and during the Tokyo Round the U.S. International Trade Commission determined that the U.S. textile and apparel industry and its workers were seriously impacted by imports. For some textile and apparel lines, the ITC concluded that no duty reductions should be made. In many other cases, the ITC advised that cuts could be made provided the cuts were less than called for by the tariff-cutting formula used in the negotiations. Thus, there were sound economic reasons not to expose an import-impacted industry to significantly lower tariffs.

Now, the Administration is seeking authority to cut duties further--by 60 per cent, or in some cases, to eliminate them. As I indicated earlier, economic conditions in the U.S. textile and apparel industry have worsened significantly since 1979. In response to the damage suffered by the industry, the Congress last year passed overwhelmingly the Textile and Apparel Trade Enforcement Act of 1985 which would have provided real relief. As you know, the President vetoed that bill so the industry is still facing an import surge in which imports this year have grown by over 20 per cent over the record level of last year.

Any tariff reductions on top of those already made and already scheduled to occur will only add to the damage sustained by our industry and lead to more job losses. Yet, it is obvious that foreign governments and the Administration are eyeing these tariffs as bargaining chips in a new GATT Round. We do not want to be the industry to "pay" for the Administration's objectives in this round. We paid in the last round and we have continued to pay while waiting for commitments to be kept to relate import growth to the growth of our domestic market. For these reasons, we oppose granting tariff-cutting authority by the Congress to the Administration for those items already singled out as being import-sensitive. This includes all those which are excluded from duty-free treatment under the Generalized System of Preference (GSP).

Thank you.

#9/Test/cmm

This statement in opposition to tariff cutting authority is made on behalf of the following organizations:

- AMERICAN FIBER, TEXTILE, APPAREL COALITION (AFTAC)
  - Amalgamated Clothing and Textile Workers Union, AFL-CIO
  - American Apparel Manufacturers Association
  - American Textile Manufacturers Institute
  - American Yarn Spinners Association
  - Carpet and Rug Institute
  - Clothing Manufacturers Association of U.S.A.
  - Industrial Fabrics Association International
  - International Ladies' Garment Workers' Union, AFL-CIO
  - Knitted Textile Association
  - Luggage and Leather Goods Manufacturers of America
  - Man-Made Fiber Producers Association
  - National Association of Hosiery Manufacturers
  - National Association of Uniform Manufacturers
  - National Cotton Council
  - National Knitwear & Sportswear Association
  - National Knitwear Manufacturers Association
  - National Wool Growers Association
  - Neckwear Association of America
  - Northern Textile Association
  - Textile Distributors Association
  - Work Glove Manufacturers Association

STATEMENT OF JOSEPH A. GREENWALD, ESQ., CHAIRMAN, TASK FORCE ON MULTILATERAL TRADE NEGOTIATIONS, U.S. COUNCIL FOR INTERNATIONAL BUSINESS, NEW YORK, NY

Mr. Greenwald. Thank you, Mr. Chairman. I am here, as you can see from my prepared testimony, representing the U.S. Council for International Business. I have previously been involved in trade negotiations, and I have also had the opportunity to practice international trade as a United States corporation representative for the Far East stationed in Tokyo.

But in the U.S. council capacity, I was chairing a task force on the multilateral trade negotiations. The conclusion of this task force was that the members of the council strongly support new negotiations—trade negotiations—with a broad agenda. As we envisage these negotiations, they will be very much like a kind of review session, such as have been held in the past by the GATT.

The business community needs some stability and reliable rules in the GATT system in order to work in global markets, which we are all facing. The main objective, as we see it, is to strengthen and expand the GATT.

The traditional liberalization of tariffs and quotas is not really a primary objective in these negotiations. Quantitative restrictions and tariffs are now important mainly in the developing countries, particularly in the newly industrialized countries, and we have to work to reduce their barriers that are maintained at the border.

At this stage in the world trading system among the industrialized countries, the major problems are informal restraints, domestic policies affecting international trade, and what are called systemic barriers. Some of these have been covered by codes in the last negotiation, which will be reviewed this time; some of them have been with us for a long time, like agriculture, and others are new.

Vital in our opinion to U.S. interest and the viability of the GATT is that the system be expanded to include services, intellectual property, and investment. These negotiations, since we are moving on to more difficult and complex areas, are likely to be very long and more complicated than they have been in the past.

It is difficult at this stage to see exactly how they will work out—for example, the timing in which agreements are reached, whether it is going to be one package whether there are going to be separate packages at different times. For this reason, we believe it is terribly important that the fast track authority be extended and that consultation—constant consultation—with the Congress be carried out to allow adequate time for the negotiations.

The negotiations have moved to the much more complex areas—difficult ones—away from simple border measures like tariffs and quotas, and that the fast track authority is required in order to carry out the results giving the Congress the option to either approve or disapprove the results of these negotiations. And that, we consider, is an absolutely essential element to successful negotiations.

Thank you.

The Chairman. Thank you.

[The prepared written statement of Mr. Greenwald follows:]

TESTIMONY OF THE UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS BEFORE THE SENATE FINANCE COMMITTEE

Mr. Chairman, Members of the Committee, I am Joseph A. Greenwald, Attorney. I am pleased to be here on behalf of the U.S. Council for International Business in my capacity as Chairman of the Council's Task Force on Multilateral Negotiations. The U.S. Council for International Business represents some 300 U.S. companies, law firms and organizations concerned about international economic policy issues that affect business opportunities. The U.S. Council has a unique role as the U.S. business organization that officially consults with major international economic institutions, including the General Agreement on Tariffs and Trade (GATT) and the Organization for Economic Cooperation and Development (OECD), through its affiliations with the International Chamber of Commerce, the Business and Industry Advisory Committee to the OECD, and the International Organization of Employers. The Council's Trade Committee has been one of the chief private sector spokesmen advising the U.S. government on American business objectives in the new round of GATT negotiations.

Mr. Chairman, our members share the concerns of the Committee, as expressed in the purposes of the bills under consideration, about the competitiveness of U.S. exports, the large U.S. trade deficit, and the imperative of modernizing the GATT trading system to make it more equitable and effective. We also agree with the assumption in these proposals that negotiations to reform the GATT are only one important and necessary part of a comprehensive package of measures for treating the interaction among trade, finance and investment. The U.S. Council has long urged a comprehensive approach that includes such elements as rigorous enforcement of U.S. trade laws against unfair trade practices, domestic and international action to promote global growth and stable exchange rates, and Secretary Baker's plan for managing developing country debt burdens. Only through such an approach can we attack all the factors that contribute to the imbalances in the international economic system that are causing the massive U.S. trade deficits.

Multilateral negotiations to reform the international trading system are essentially a long-term exercise that will not have an immediate impact on U.S. trade performance. Bilateral negotiations, such as those underway with Japan, Canada and others, can have important results on removing barriers to U.S. exports in the shorter term, but are no substitute for a multilateral approach to improvement of the world trading system. In this perspective, multilateral negotiations are vital to the interests of U.S. business because it is only through this mechanism that we can expand export opportunities and strengthen the rules which govern trade on the broadest basis. In addition, we need multilateral negotiations to establish effective disciplines over practices that distort or inhibit trade in areas like services, intellectual property rights and trade-related investment issues, which will be increasingly important for future U.S. competitiveness, and which are, for the most part, not covered by present international rules. Our members believe these negotiations are necessary to achieve a fairer and more efficient system that will bolster U.S. competitiveness and they want Congress to provide the necessary authority for U.S. leadership in a new GATT Round.

These negotiations will not be easy; the U.S. brings an ambitious set of objectives. Nor will they be like the earlier GATT rounds which focused largely on tariff reductions. While tariff barriers are still costly for some of our members, and further tariff cuts should be among U.S. objectives, tariffs should not be the main focus of this round. The main work should be on efforts to: achieve transparency and international surveillance of policies and practices that affect trade; remove barriers posed by national policies or practices that result in trade inequities or distortions; extend GATT rules and disciplines to cover informal restrictions on imports; liberalize trade by exchanging concessions that will provide opportunities for U.S. exports; and extend the GATT to important new areas, such as intellectual property, services and trade-related investment measures.

We expect there will be parallel negotiations on a series of non-tariff issues that will be largely self-contained. This implies different rates of progress. Some issues like improvement of the dispute settlement process, a new code to prohibit trade in counterfeit goods or, perhaps, a new process for reviewing policies affecting trade should be completed sooner than others. These are important to U.S. interests, and we must have the option of seeking Congressional approval as they are ready.

To have the maximum opportunity to achieve the demanding set of U.S. objectives in a negotiation of this type, it is essential that U.S. negotiators have adequate flexibility and not be forced to meet artificial deadlines. It is for this reason that we favor a 10-year grant of authority, about which I will comment later. The U.S. Council has previously recommended a series of guidelines for such authority, and I would ask that the attached statement be included in the record. I would now like to elaborate on these, with specific references to the proposed legislation: S-1865 and S-1837.

"Fast Track" Procedures

The fast track procedures that were set up under the 1974 Trade Act are essential for a satisfactory outcome, and they should not be conditioned on any pre-defined results. To achieve the many important U.S. objectives, U.S. negotiators must have flexibility if they are to reconcile the objectives of different countries to achieve results that can be approved by all parties.

I know, from my own experience as a negotiator, how important this is. Countries will not make bottom-line concessions to negotiators if they know that they will have to renegotiate point-by-point with Congress. Rigidly pre-defined objectives, or procedures which create doubt that the agreement struck is the last word, drastically limit the bargaining power that negotiators have.

To adjust to the different type of negotiation that I've outlined above, it is important that such fast-track procedures be made applicable to results of negotiations as they are achieved, without waiting for a final "package" of agreements. Some agreements may be concluded in a short period. Some of these, as, for example, a stronger dispute settlement process, are of such importance to the strengthening of the GATT system against the dangerous pressures now eroding it that they should not be delayed. Certainly it is in the U.S. interest to begin strengthening GATT disciplines as fast as possible. In this type of negotiation there is nothing to be gained by delaying implementation of such agreements while other negotiations continue. The language in S-1865 should be clarified to make explicitly possible this type of "sequential" application of fast-track procedures. S-1837 verges on being overly restrictive in terms of preconditions, and the concept of "withdrawal ...at regular intervals" from an agreement is not likely to evoke serious negotiations by our trading partners.

The U.S. Council is, of course, concerned that only agreements that are truly beneficial to U.S. interests be approved. But the most efficient way to ensure this result is not to reject an agreement in the eleventh hour on the basis of one or two deficiencies and to send it back for renegotiation, which generally consigns it to oblivion with benefits for none. Rather, Congress ought to be closely involved step-by-step with U.S. negotiators from the beginning of the process. I can assure you, Mr. Chairman, that the U.S. business community for its part intends to be intensively involved from day one, and we warmly welcome Ambassador Yeutter's commitment to active consultation with the private sector, which he stressed in his testimony before the International Trade Subcommittee of this Committee on May 14.

Thus, Congressional concerns about achievement of U.S. objectives must be factored into negotiations as they develop, through adequate procedures for consultation between U.S. negotiators and key Congressional committees. There is no substitute for having selected Senate Finance and House Ways and Means Committee members designated as responsible for oversight and principal points of contact for U.S. negotiators. By the same token, these people must be able to speak authoritatively for their colleagues and give negotiators the guidance and support they need.

Conditional Most-Favored-Nation Treatment

The provision in S-1865 that requires the President to recommend that benefits of agreements apply solely to parties of such agreements should be clarified to ensure flexibility. The President should be authorized to negotiate conditional MFN agreements in which parts or all of the agreements would apply only to participants. But in most circumstances, unconditional MFN application will be the appropriate principle, and the President should not be required by law to extend all benefits only on a conditional MFN basis.

Similarly, authority requiring strict sectoral reciprocity should be avoided, although Congress might well encourage negotiations of sectoral agreements where the extent of liberalization may be greater than could be achieved through application for formulas that apply to all products.

Duration of Authority

Congress should grant negotiating authority with fast-track procedures for a period of ten years.

Our trading partners will take negotiations more seriously if there is a Congressional declaration with broad coverage and a sufficient period of time. They will be reluctant to engage in serious bargaining unless they perceive that Congress has endorsed the process for a sufficient time in the future to make credible efforts to negotiate agreements in complicated areas. The results of these negotiations are likely to be a series of mini-packages that are self-contained or only loosely linked to a final, overall agreement. Therefore, the value of a deadline to pressure agreement on a single package is likely to be considerably reduced, and, indeed, could be counterproductive. On this point, we prefer the 1995 date of expiry proposed in S-1837 to the 5-year grant of authority in S-1865.

On the other hand, the language in S-1865 explicitly extends authority and fast-track procedures to bilateral trade agreements. This is important because it is in the U.S. interest to pursue GATT-compatible bilateral agreements simultaneously with multilateral negotiations so that more comprehensive market-opening agreements than may initially be possible with all GATT partners can be negotiated with those who wish and implemented as rapidly as possible.

Objectives

It is useful for Congress to indicate U.S. objectives as long as this is done without limiting the flexibility of negotiators or conditioning the fast-track procedure on any predefined results. The U.S. Council supports the majority of the specific negotiating objectives enumerated in S-1865. However, there are some that our Committee has not addressed, like the objective of accelerated implementation of trade concessions by countries with major trade surpluses.

Standstill/Rollback

The U.S. Council recommends that any "standstill" agreement should permit a rigorous implementation of U.S. unfair trade laws, as well as other actions compatible with our GATT rights. We have previously endorsed the need to rollback protectionist action. We strongly favor strengthening GATT discipline and, in cases where countries have taken protectionist action outside GATT rules, it would be desirable to bring them back into conformity. We also favor the maximum achievable transparency in trade actions and digressivity in safeguards against fair competition.

In conclusion, Mr. Chairman, the U.S. Council urges the Congress to pass expeditiously the type of negotiating authority we have recommended so that the U.S. can exercise its leadership role in pursuit of U.S. business interests to reform and strengthen the GATT disciplines. The stakes are high. The GATT system is eroding. If protectionist pressures cannot be contained in the short term and if negotiations cannot revitalize the GATT soon, confidence in the system may be completely forfeited, leading to the result that trade restrictions again become the dominant feature of the trade environment, as they were in the interwar period, with potentially disastrous economic and political consequences for the U.S. and the world.

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United States Council Position

on

Trade Negotiating Authority

February 25, 1986

The United States Council for International Business supports the new round of multilateral trade negotiations now in preparation. We have reviewed several proposals presently before the Congress regarding the negotiating objectives and procedures for Congressional consultation, review, and eventual decision on the results of the negotiations. The following recommendations have been developed as the Council's position concerning the issue of negotiating authority.

1.) Assuming legislation can be worked out that does not unduly restrict the flexibility of the negotiators or include undesirable changes in U.S. trade laws, Congress should grant the President negotiating authority.

- Early initiation of multilateral negotiations is in the U.S. interest. Delay would mean further erosion of the GATT system's capacity to regulate unfair trade, as well as postponement of new market opportunities in areas where the U.S. is most competitive.

- While multilateral trade negotiations (MTN) will not have a short-term impact on the U.S. balance of payments, it would be desirable to get Congressional endorsement this year of starting negotiations. U.S. leadership can be more effective with a Congressional blessing for negotiations.

- However, it is not essential to obtain negotiating authority in 1986 if the price is overly specific provisions that would tie the hands of U.S. negotiators or if such legislation includes unacceptable modifications of existing U.S. trade law.

- Our trading partners will understand if acceptable legislation cannot be worked out; they also realize that most of the results of the negotiations will have to be brought back for Congressional approval. Preparatory work already under way can continue in 1986 without further authority.

2.) Congress should grant authority to negotiate reductions in trade barriers for a period of ten years, extending the "Fast Track" Procedures of the 1974 Trade Act to the results of these negotiations.

- Present authority is not broad enough and/or expires too soon for multilateral negotiations since it will probably take several years to cover the many issues of importance to the U.S. Further, present authority only permits negotiations on nontariff barriers through January, 1988, and contains only limited authority on tariffs.

- Congressional grant of authority at some stage is a necessary political ingredient for successful negotiations. While our trading partners understand that any agreements must be brought back for Congressional approval, they will take negotiations more seriously if there is a Congressional declaration with broad coverage and a sufficient period of time. Our trading partners will be reluctant to engage in serious bargaining unless they perceive that Congress has endorsed the process for a sufficient time into the future to give credibility to efforts to negotiate agreements in complicated areas such as services.

- In the past, U.S. negotiating partners have held off concluding negotiations on the most difficult issues until the U.S. authority was about to expire. This time, the expiration deadline may not be so significant. It may be possible to negotiate and agree on mini-packages which are self-contained or only loosely linked to final, over-all agreement. Also, except perhaps for tariff-cutting authority, the procedures are different. Thus, the duration may not be as important as in past negotiations.

3.) Congress should permit results of negotiations to be approved by "Fast Track" procedures as they are achieved, without waiting for a final "package" of agreements.

- U.S. interest in extending GATT principles to new areas, like services; in opening markets where the U.S. enjoys a comparative advantage; as well as in curtailing unfair competition by making the GATT system more effective; suggest that, whenever possible, results need to be implemented as soon as they are negotiated.

- Certain agreements (e.g., controlling trade in counterfeit goods) can be concluded quickly, among at least some countries. There is nothing to be gained in delaying their implementation while other negotiations continue.

- This will be a different kind of negotiation in terms of focus and types of bargains. It will focus much less on the traditional tariff reduction bargains and more on new areas, reform and updating of rules, and on other difficult nontariff issues. Therefore, there is likely to be less scope for tradeoffs among different, unrelated issues. Survival of the GATT system may depend on being able to demonstrate that urgent problems can be dealt with urgently even while negotiations continue on more complex issues.

4.) Assuming that too detailed instructions which would tie the hands of the negotiators can be avoided, it may be useful for Congress to identify areas for negotiation and negotiating objectives in general terms. However, ultimate approval or use of the "Fast Track" procedure should not be conditioned on any predefined results.

° Different countries have different objectives. U.S. negotiators need flexibility to reconcile these differences to achieve results that can be approved by all parties.

° Rather than strengthening the hands of negotiators, preconditions limit the possibility for positive results. This is especially true of preconditions which try to define in advance minimum acceptable results. A mandate, which encourages negotiators to seek removal of all barriers or trade-distorting practices but leaves open a judgment about what is acceptable until the agreements are brought back for review, is more likely to get the results we seek.

° The provision in the Senate Finance Committee draft (S 1860) that requires the President to recommend that benefits of agreements apply solely to parties to such agreements should be opposed. The President should be allowed to negotiate agreements, parts or all of which apply only to participants, but should not be required by law to extend all benefits on a conditional most favored nation (MFN) basis. Similarly, authority requiring strict sectoral reciprocity should be avoided, although Congress might well encourage negotiation of sectoral agreements where the extent of liberalization may be greater than could be achieved through application of formulas that apply to all products.

° Congressional concerns about achievement of U.S. objectives should be addressed though adequate procedures for consultations between U.S. negotiators and key Congressional committees. As in the past, close, constant consultation with the Congress would be enhanced if selected Senate Finance and House Ways and Means committee members were put on the U.S. delegation.

5.) New negotiating authority should include authority for bilateral negotiations and fast track implementation.

° It is in U.S. interest to pursue GATT-compatible bilateral agreements, for example with Canada, simultaneously with multilateral negotiations so that more comprehensive market-opening agreements than may initially be possible with all GATT partners can be negotiated with those who wish and implemented as rapidly as possible.

The CHAIRMAN. Mr. Moore and Mr. Nehmer, let me ask you this so that we are in agreement on definitions. What do you mean by an import-sensitive industry? You may both answer if you want.

Mr. NEHMER. Our recommendation—the recommendation of our group—as the best measure is that which the Government itself has adopted: Items which are ineligible for duty-free treatment under the Generalized System of Preferences, either by statute, where there are statutes, or——

The CHAIRMAN. Your answer is a technical definition.

Mr. NEHMER. That is correct. It is the easiest way to handle it, we believe.

The CHAIRMAN. Mr. Moore.

Mr. MOORE. I would agree with that. I would also say, however, there may be additional products that need to be determined that were not judged to be import-sensitive at the time that the GSP authority was granted or renewed, and those should be considered by the administration, perhaps by the ITC as it was in the Tokyo round.

The CHAIRMAN. What should be our ultimate goal in negotiations if we can achieve it? And if we cannot, that is another matter. Should we be attempting to move toward mutual reductions on barriers to trade and let the chips fall where they may, if we can get the reductions in barriers? Or is that not a worthy goal? The tradeoff is going to be that some industries will not be able to survive in the United States on that basis.

Mr. MOORE. Mr. Chairman, I don't believe that ought to be the primary goal. I think there should be an element of true reciprocity in a negotiation. Nobody should really win a negotiation; and as a participant on the side of the administration in the Tokyo round, I can tell you that we lost, in my opinion, in the Tokyo round. We gave much more than we got.

The CHAIRMAN. I didn't ask the question right. What should be our ultimate goal? Should we be moving toward the idealized free trade if it was achievable?

Mr. MOORE. If it were achievable. I think that that is something probably that drives every round of trade negotiations, to aim at that kind of idealized concept; but I think that has to be tempered very strongly by the realities of what is happening in the world.

The CHAIRMAN. If we can achieve it though, should we move toward it?

Mr. NEHMER. If I may respond? I think that kind of puts the cart before the horse because it says that we won't know that we can achieve it, but we would take great risks to try to achieve it. I think I am unwilling to accept the notion that we should take those risks.

The CHAIRMAN. Let me ask you a specific. If I understand correctly, Hong Kong imposes relatively few restrictions on imports. Is that correct?

Mr. MOORE. That is correct.

The CHAIRMAN. And we can sell insurance there and we can sell automobiles there, and we can sell whatever else we can sell there. Is that correct?

Mr. MOORE. That is correct.

The CHAIRMAN. Should we therefore give Hong Kong the same privilege in this country?

Mr. MOORE. Not if that would create a very damaging situation for domestic industries, not in my opinion.

The CHAIRMAN. That is what I was trying to get at. So, the goal is not a goal we should even be trying to achieve; and the fact that we could reduce the barriers to zero on both sides is not an end in itself?

Mr. MOORE. I would view that merely as an idealized objective that drives the kinds of efforts that are being made for trade rounds, but that should not be the specific objective for a trade round. No, sir.

The CHAIRMAN. In other words, the goal that we have achieved with Hong Kong, if the result of that is that—in this case now, a free exchange of goods—Hong Kong can beat us in this country in certain areas, even though there are no barriers to our entry into Hong Kong. We should not allow Hong Kong to sell in our market for reasons beyond the fact that the trade is free and full.

Mr. MOORE. No, sir. I would put it a little differently if I could. I think that we should not permit Hong Kong to damage domestic industries excessively; and by that, I mean to grow at huge rates of import growth as they have done in the industry that I represent.

The CHAIRMAN. Even though their trade is fair?

Mr. MOORE. That is correct.

The CHAIRMAN. All right. Senator Baucus.

Senator BAUCUS. Following up on that same line of questioning, could you be more specific, Mr. Moore, and give us some examples of situations where it would be appropriate for the United States Government to impose tariffs or quotas or somehow limit the access of, say, Hong Kong, even though we establish as a premise that Hong Kong has no unfair trade practices?

Mr. MOORE. With Hong Kong?

Senator BAUCUS. With any country. Let's say that country X sells products to the United States. Assuming that country X does not maintain any unfair trade practices, under what circumstances do you think it would be proper for the United States to deny access or limit access to our market?

Mr. MOORE. I think it would be proper when a policy has been established or a commitment made to prevent market disruption because of excessive amounts of imports entering the U.S. market. I think that under those circumstances it would be correct to limit the amount that a country such as Hong Kong or a hypothetical country should ship.

Where there exists a policy that was reaffirmed that market disruption would be limited in those situations——

Mr. NEHMER. And, Senator, I think it goes beyond the question of policy. It also relates to the legislation which Congress has passed and which has not been implemented effectively. I am talking about fair trade; I am not talking about unfair trade where a lot remains to be done to get that legislation implemented fairly.

I am talking about, for example, the escape clause. When the International Trade Commission unanimously recommends that the nonrubber footwear industry has been injured by imports or that the copper industry has been injured by imports, and the

President of the United States does not provide import relief after a unanimous finding of injury by the ITC——

The CHAIRMAN. That is not a violation of the law, however.

Mr. NEHMER. That is correct because he is not required to because of the discretionary authority which Congress has given him.

Senator BAUCUS. Let me change subjects here, and move to the GATT dispute settlement mechanism. How far should we go in giving the GATT or some other international body the authority to resolve disputes that this country might have with other countries? How binding should a GATT determination be upon the United States? Mr. Norris, do you have any views on that?

I think this a fundamental question for new round negotiating authority because, obviously, if a GATT determination is not enforceable, we are wasting our time here. How far should we go in accepting a GATT determination?

Mr. NORRIS. Well, frankly, you used the term "hot air." I think it is a big waste of time, by and large. It is too late. Where we have to work and try to get some equity in this picture is in connection with technology. That is where it all starts. And by the time it shows up as a trade imbalance, it is too late.

Senator BAUCUS. Let's say there are provisions in the new GATT authority which address the imbalance in technology flows between the United States and Japan. Say that Japan is required to open up and allow American joint ventures in R&D and so forth; but say that there is a determination by GATT that a new Japanese procedure which limits United States participation in R&D is a fair practice by the country of Japan. Should we be bound by that decision?

Mr. NORRIS. Yes. If there is a negotiation that says that there is going to equity—and it doesn't have to be equal—but some appropriate relationship of technology that flows out and that that flows in, in connection with any country, if that is agreed to, fine. We have made progress, and we should honor it.

Senator BAUCUS. I see my time is up, but I wonder if I could——

The CHAIRMAN. Mr. Greenwald wanted to comment.

Senator BAUCUS. Yes; he was shaking his head on that answer.

Mr. GREENWALD. Well, I have been shaking my head; but this is one that we had examined in our organization. And I think where we came out is that probably at this stage we can stop short of making it binding or mandatory. There are a lot of improvements that I think are absolutely essential and that can be made in this new settlement procedure. But short of that, better panels and obviously Government representatives——

Senator Bradley is shaking his head because he is familiar with that subject. There are a lot of improvements I think that can be made. I think the most unconscionable thing is how long it takes to get a decision and then how long it takes to get any action on it.

We think it should be recommended to the USTR that some provisions be put in that will make it possible, that once—first of all, put time limits on the panels operations; second, once a panel has decided, if the contracted parties don't follow up and make a decision on that, the aggrieved party can go ahead and take the action——

Senator **Baucus**. If I might, Mr. Chairman? On a scale of 1 to 10, with 1 being present law and 10 being complete adherence to any GATT determination, how much further do you think that we should go?

Mr. **Greenwald**. Well, I would certainly go somewhere near six or seven.

Senator **Baucus**. All right. Does the panel generally agree with that? Is there any disagreement?

Mr. **Moore**. No.

Senator **Baucus**. Thank you.

The **Chairman**. Senator Bradley.

Senator **Bradley**. Thank you very much, Mr. Chairman. Would anyone on the panel think that the Congress should not give the administration the authority to negotiate in a new GATT round? Mr. Bishop, do you say we should not give the administration the authority?

Mr. **Bishop**. In my remarks, I suggested that the Congress not give the President the authority until Congress had passed, and hopefully in this bill, a clear trade policy. And I enumerated what I thought what should be the cornerstone of a trade policy.

Mr. **Nehmer**. May I comment, too, Senator?

Senator **Bradley**. Yes.

Mr. **Nehmer**. If a new trade round means tariff-cutting authority, whether it is based upon the Tokyo round maximum of 60 percent cut or the legislation in S. 1860 which provides for the administration to negotiate and come back to Congress, I would say then we should not give them authority to enter into a new round. I think the tariff-cutting process is one of the most sensitive, one of the most serious aspects of what would happen in a new round of trade negotiations to the detriment of American industry.

Senator **Bradley**. Mr. Clark, speaking for the service industries, do you think a new round should be vigorously pursued? And do you agree with the statements earlier that called into question the theory of comparative advantage?

Mr. **Clark**. Senator Bradley, representing the service industries, we do hope that the new round will be vigorously pursued, and we hope that the service industry concerns will be included in those negotiations. As far as the theory of comparative advantage is concerned, I have to admit I am an absolute believer in the theory.

The basic beneficiary of the theory of comparative advantage is the consumer. We have got to always keep in mind that the consumer doesn't have a constituency here, but he is awfully important to the economy.

Senator **Bradley**. Mr. Clark, in your testimony, you say: "Many of America's key markets in the developing world have suffered because of the international debt crisis of the past few years. If those markets are to be revived to all our mutual benefit, then we must keep on the path toward market opening rather than market closing measures." Could you expand on that a little bit? What do you mean by that?

Mr. **Clark**. I know this is a subject of considerable interest to you, Senator Bradley. We have been faced, since August 1982, with the global debt crisis; and one of the things that you have to do in dealing with a crisis of this kind is to bring the current account deficits of the debtor countries into line. There is the danger in doing that that you put restrictions, direct restrictions, on imports and we don't favor that. It gets a little technical. We believe in the so-called adjustment process where, through realistic exchange rates, and domestic monetary and fiscal policy, you can bring the current accounts into equilibrium.

But the danger exists that protectionist interests will use this kind of a situation, where you need to bring the imports down, to impose direct restrictions.

Senator BRADLEY. Does it trouble you that the trade deficit with Latin America in the last several years has increased more than the trade deficit with Japan? And does it trouble you that several hundred thousand Americans have lost their jobs because of imports from Latin America?

Mr. CLARK. Yes, Senator Bradley, it certainly does concern us. What I think we have to be careful about here is: It was terrific when the Latin countries were running these big deficits, and we had these export markets, but we have to recognize that that was not a sustainable situation. You know, they were going into debt much more rapidly than they could afford to keep up. So, what you really are faced with here was a cutback in total resources that Latin America had, and there was no way that it could have been otherwise.

And that meant that we did, in fact, lost some of those markets.

Senator BRADLEY. Does it trouble you—and I would like Mr. Nehmer or Mr. Moore to comment on this as well—that from 1980 to 1984, Brazil expanded its textile and apparel exports by a factor of 11? It is an easy industry for getting some quick dollars; it requires light capital investment. Does it trouble you that we might be sacrificing this whole sector of the economy?

Mr. CLARK. Well, we are going through an adjustment process here also, and some of the countries are able, as has been pointed out, to produce these commodities far below what we can produce them for here in the United States. And I think that we do have to keep in mind that this does have a positive aspect, which is that the purchasing power of the American consumer is enhanced. So, we have to weigh that off with the adjustments that the textile industry is facing today here in the United States.

Mr. NEHMER. If I may say, Senator, it certainly does disturb me. Not only is what you have described happening, but the Brazilian Government is heavily subsidizing its exports in various sectors, which is a known fact. There are many cases against Brazil, so that is not fair trade that has resulted in the growth of their exports in many areas.

And in another product area of very great importance, Brazil has now become the third major foreign supplier of nonrubber footwear in the United States, just jumping over several of the other countries over the last—over the period that you have described and into 1985. Carlos.

Mr. MOORE. Senator, if I may also?

Senator BRADLEY. I think the chairman wants to move on. Thank you.

The CHAIRMAN. Senator Grassley.

Senator **Grassley**. Mr. Chairman, I am not going to ask any questions. I want to insert a statement that I have for an opening statement, and I want to highlight in that statement the fact that, when Ambassador Yeutter was here several weeks ago, at that time there was doubt as to whether agriculture was going to be included in the GATT rounds. It is my understanding now that that issue has been settled; it will be held. So, from the standpoint of a major interest of mine in this new round of GATT talks, I am glad to note the progress being made.

The **Chairman**. Mr. Moore, you and Mr. Nehmer referred to market disruption. Tell me what that is.

Mr. **Moore**. Market disruption is the fundamental concept on which we have based our textile policy through many administrations, and it is the cornerstone of the multifiber arrangement, which says that rapid increases in imports from the low-cost, low-wage countries can damage domestic markets and producers in many different ways.

The **Chairman**. When you say "damage," I want to know what the damage is. Do you mean that the domestic producers have a declining percentage of an expanding market or that they have a declining percentage of a stable market; or what does it mean?

Mr. **Moore**. It can mean either of those, Senator. In the multifiber arrangement itself, it is defined as being one or more of many different indications; and those would include rapid increases in imports, forcing declines in prices or in the marketplace. It is also loss of employment in the domestic industry, buildup of inventories, failure to get orders in the future—any combination of those kinds of indexes or indications can be judged to be disruptive.

The **Chairman**. Now, in answering my questions henceforth, I would appreciate it if you would respond as to what the law ought to be because we can change the law. We can change the multifiber agreements before they are ever made if we take away from the President the power to make certain kinds of agreements. Should we protect industries in this country against fair trade which results in market disruption?

Mr. **Moore**. Senator, I think that that policy was established some 20 years ago for the textile and apparel industry in the United States and has been followed in one form or another to one degree or another through many administrations, well, since the early 1960's.

The **Chairman**. Should it be continued?

Mr. **Moore**. Yes, sir.

Mr. **Nehmer**. It goes back, sir, if I may say, to an actual decision of the GATT contracting parties of November 1960, the definition of market disruption; and it came about as a result of an initiative of the United States by Under Secretary of State Dillon concerned with the overcapacity in the world of major industrial products.

The **Chairman**. All right. Does steel face the same problem that textile faces?

Mr. **Moore**. I know that steel faces very serious import problems, and this administration has acted to try to limit, I think, import penetration to around 25 percent.

The **Chairman**. Is shipbuilding facing the same problem?

Mr. MOORE. Perhaps. I am not that familiar with it. I know there are problems in shipbuilding.

The CHAIRMAN. It does as a matter of fact. If we didn't have a buy America provision in our military ships, we wouldn't build any ships in the United States.

Mr. MOORE. But there is one fundamental difference, Mr. Chairman, if I could say so; and I think Senator Bradley mentioned it. And that is that practically any country in the world can very quickly become a major player, a major exporter of textiles and apparel with very little capital investment. We have seen countries that I knew about only because I collect stamps that have now become major players in disrupting our market in certain products.

The CHAIRMAN. Should we protect the domestic avocado industry against market disruption?

Mr. MOORE. I think that would be a policy judgment that would be need to be made as to how many people could disrupt it, how many jobs would be at stake, what would be the cost to this economy.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. Yes. I am just curious, Mr. Nehmer. If we don't give up textiles in order to get services, what do we give up?

Mr. NEHMER. In terms of tariffs?

Senator BAUCUS. In terms of concessions.

Mr. NEHMER. At least half of the tariff schedule is not affected by our recommendation.

Senator BAUCUS. What industries do——

Mr. NEHMER. What we are concerned about is the fact that the countries whose markets for service industries and for investment purposes are relatively closed to those, those are the developing countries which do produce the products represented by our particular group—textiles and apparel and steel and shoes and so forth—and that those are the product areas where they will want increased access to the U.S. market, notwithstanding the fact that their exports to us of those same products have increased so substantially over the last several years and have contributed mightily to the trade deficit of $150 billion.

The CHAIRMAN. You are saying that these are the countries that have closed their markets?

Mr. NEHMER. Also they have closed their markets. Certainly. You can't ship textiles and apparel to a Brazil or to a Korea or to a Taiwan. Yes, you can to Hong Kong. There, some other factors inhibit importing from the United States. You can't export these products to a Maritius or a Maldive Islands, two of the areas that Mr. Moore mentioned, or to Bangladesh or Thailand or Indonesia, the Philippines.

These markets have very tight restrictions, and it is not limited to textiles and apparel. It applies to many of the other products that are problem products for the American economy today.

Senator BAUCUS. So, what you are saying is that these countries are closed. What if those other countries do open up? Then, would your industry be willing to trade away concessions on textiles?

Mr. NEHMER. Not if the effect would be to further damage these industries in the United States.

Senator **Baucus**. All right. So, back to my earlier question. Let's assume first that those other textile exporting countries do open up to the United States.

Mr. **Nehmer**. Yes.

Senator **Baucus**. If we don't trade away textiles in order to get services, where do we make concessions if not in textiles?

Mr. **Nehmer**. Perhaps what we should be asking for in our negotiations is equality of treatment in terms of reciprocity which does not exist insofar as these areas are concerned. I don't think the United States ought to give up any industry to get something which a member of GATT—these other countries that are members of GATT—should not be restricting at this point in time, anyway.

Senator **Baucus**. I don't quite understand. Would you say that again, please?

Mr. **Nehmer**. As a member of GATT, any one of these countries should be providing access to American manufactured products without the quotas and without the subsidies and so forth—the barriers that exist. Why should the United States pay for access to their markets when these countries may very well be acting inconsistently with their own GATT obligations?

Senator **Baucus**. I am assuming that these countries do grant access, lower their tariffs and knock down trade barriers.

Mr. **Nehmer**. What I am saying is not to the detriment of any American industry in the process. Joe, do you want to add to that?

Mr. **Greenwald**. Mr. Chairman, Mr. Nehmer has asked whether I wanted to comment on that.

The **Chairman**. I can't hear you.

Mr. **Greenwald**. Very briefly, leave the textile industry issue aside. Your question about what do we give up in order to get services. In the first instance, our own services group that has been looking at this looks upon it as something that we hope would be in large part a self-contained agreement, very much like the codes that were negotiated in the Tokyo round. We would hope that all of the member states, participating countries in the GATT, would consider that it was in their interest to have services covered by the same principles in the GATT that cover merchandise trade.

So, in the first instance, we wouldn't think that the United States would look at it as a matter of what industry we would trade off. Now, ultimately, the whole package of the agreement, or the parts of it, will have to be looked at by each negotiating party to see whether it is a satisfactory package. If the developing countries think that service is only for the United States or for the industrialized countries, then they will be asking, as you have just been asking: What are you going to give in return for it?

Well, we don't quite look at it that way. Let me give you an example—not the banking industry, but let's take travel and tourism, which is a service of interest to the developing countries. One of the first things that may be done under this umbrella of services that the coalition is looking for would be to spell out the travel and tourism, which is of interest to the developing countries as well.

So, in the first instance, we would look upon it as something that all of the participating countries were getting something out of, and only in the overall balancing would you then look to see that you did get a little reciprocity when all things were considered.

Senator BAUCUS. Thank you.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. Thank you, Mr. Chairman. Imports to the United States from Latin America have created a job loss in this country of about 600,000 jobs in the last several years. Our exports to Latin America have dropped off precipitously: a 400,000 job loss in this country. So, we have lost 1 million jobs in this country because of an increase in imports from Latin America and a decrease in our exports to Latin America. Now, the response to this is, I think, manifested in the Congress today, and that is a call for barriers to imports from all sources, and in this case from Latin America. Here is my question to you, taking Brazil as the case: Last year Brazil had a current account surplus of $12 billion. Brazil also had payments of interest to banks of $12 billion. Now, in that kind of scenario, how are they ever going to grow and how are we ever going to get relief from pressure on our jobs? Mr. Clark.

Mr. CLARK. Thank you, Senator Bradley. Brazil is really an interesting case because here we have a country which has a great deal of foreign debt—$100 billion. It has $10 billion of interest it has to pay. It is current on all of those payments. It is running a current account surplus, as you say, and it also has one of the highest rates of economic growth in the world. You know, everybody will tell you that the debt is a terrible drag, and these countries can't grow because of it; but Brazil proves exactly the opposite. If you get your policies right, you can service the debt; you can earn foreign exchange; and you can increase your GNP. And that is the most important thing.

And I would say, you know, Brazil has got it pretty much right. There aren't too many restrictions on the import side, and we have to deal with that. But by and large, they have got a wonderful economic model, and it is going; and the United States is going to profit from that because, by letting them earn dollars, by letting their economy grow, our markets are going to grow.

I would just say that it is a shame that the other countries in Latin America aren't learning from the Brazil experience to the benefit of the United States because those markets have got to grow if, over time, our exports are going to grow. And Brazil has accomplished that, Senator Bradley.

Senator BRADLEY. But my point, and you illustrated it, is not if Brazil is earning a current account surplus and all the dollars are going to the banks; the answer is that none of the dollars are going to buy American exports. And that is why we have 400,000 people who have lost their jobs in this country, because of a decline in exports. And pressure is building to save the 600,000 jobs that have been lost from imports. Now, in that kind of circumstance, why isn't some debt relief a reasonable response?

Mr. CLARK. Senator Bradley, this kind of a discussion depends very much on the base years, and you have very carefully picked the base years when the Brazilian imports were high because we were lending them a lot of money. And I repeat, that isn't sustainable. If you compare United States exports to Brazil today with where they were 10 or 15 years ago—you know, the long-term trend line—you will see it is very much upward because the economy is growing, and they are buying more. If you compare it with

1981, you will get that kind of a drop; but 1981 was a very exceptional year.

The Brazilian market is growing and, as a result, American exports to Brazil will grow, and American jobs will grow.

Senator **Bradley**. Could I just ask one followup?

The **Chairman**. Yes.

Senator **Bradley**. Could I ask Mr. Greenwald: If you make a bad investment in a computer firm or IBM invests $500 million and it doesn't turn out, what do you do with that investment?

Mr. **Greenwald**. The investment doesn't turn out?

Senator **Bradley**. Yes. You write it off; right?

Mr. **Greenwald**. If you can't sell it, that's what you do.

Senator **Bradley**. The question is, Mr. Clark, why banks don't write it off.

Mr. **Clark**. Banks have about $400 million of loans outstanding to the developing world. In fact, as Senator Bradley says, we have written off very, very little of that. We believe, Senator Bradley, that we are arriving now at——

Senator **Bradley**. Could I just interrupt at that point? You don't write off very many. What is a Brazilian loan worth in the secondary market today?

Mr. **Clark**. I would guess probably, if you had to sell them into the market, you probably would get 70 cents on the dollar, something like that. You would get less for other countries. Brazil is one of the stronger ones. You know, that is not what we are talking about here, Senator Bradley. What we really anticipate is that, by working with these countries—we now have the Mexican program right in front of us—that they will once again over time become credit worthy, and those loans will become current and collectible. We think we are about half way there from the crisis of August 1982.

Senator **Bradley**. As long as we continue to lose American jobs?

Mr. **Clark**. Senator Bradley, your whole calculation about the loss of jobs is because you very carefully picked a couple of years when United States exports to Latin America were booming. That is 1980 and 1981; and they were booming because these countries in those 2 years were fabulously going into debt, and that was not sustainable under any conditions.

Senator **Bradley**. No; I am also picking the eleven-fold increase in Brazilian exports of textiles and apparel. The 600,000 jobs that have been lost in this country because of imports from Latin America.

Mr. **Clark**. The trend line over the years of United States exports to Brazil is substantially upward, Senator Bradley.

The **Chairman**. Gentlemen, let me pursue further what kind of a law we ought to draw and not what is the existing law, because we are coming down to a philosophical choice in this Congress between whether we try to push other countries in the world toward opening their trade barriers—I mean, getting rid of their trade barriers, and we get rid of ours, and we have some—and we will compete toe to toe with those countries that will allow us toe-to-toe competition. And we will compete here and we will compete there. That is one philosophy.

As opposed to a philosophy that says, no, there are just many areas where we can no longer compete in fair trade, and I think both Mr. Nehmer and Mr. Moore said they cannot compete with Hong Kong, even though it is fair. And therefore, we will not try to do so, and we should restrict their access because it is market disruption over import sensitive. And I am trying to decide what the policy ought to be.

Twenty years ago, the policy of organized labor in the Kennedy round was, by and large, what we call free trade, and we would compete any place else in the world. I don't think that is the policy any longer, and I sense there is an argument being made—and it may be a legitimate argument—that there are certain American industries that we ought to protect against fair competition because, if we don't, we are going to lose jobs, that we cannot really compete in the world because we are not an industry that is service oriented.

People can get into it with relatively little capital; and what I am trying to discover is: Should we make as a matter of policy, a decision that says there are certain industries—forget the argument for the moment of national security; we will have a hearing on that next Wednesday—should we make a decision that there are certain industries that cannot compete worldwide because of our high labor costs, our environmental protection decisions, our OSHA rules, or whatever; and we let those industries go? Or should we say, no, we are going to protect them because they deserve protection?

Mr. MOORE. Senator, could I take a crack at that?

The CHAIRMAN. Yes.

Mr. MOORE. You did mention that Mr. Nehmer and I talked about fair trade from Hong Kong.

The CHAIRMAN. Yes.

Mr. MOORE. There is a distinction, which I think you made in your final remark, that trade from Hong Kong may be fair in one sense, that is a legal sense, that it is not subsidized and that they have an open market; however, from the sense of worker protection, protection of the environment, standards of living that we have decided are important for our workers, it certainly isn't fair. A recent visit to a denim plant in Hong Kong—one of my staff asked, well, where do you put the effluent, the terribly polluting dyes? They said, well, we run it into the bay. And he saw it running right in open ditches to the bay.

That is not fair trade in that sense.

The CHAIRMAN. All right. That is what I want to know: what we are coming down to. Is the world standard going to be our standard? And they have got to have our OSHA protection and our minimum wage and our 8 hours a day and our standards; or they cannot compete in this market?

Mr. MOORE. I think that the important decision to be made is whether we continue to open our markets and reduce our standard to the world standard. I think that we have a standard of living that depends very largely on the value that we add in our manufacturing processes that permits us to pay workers higher and higher wages and increase our standard of living.

The **Chairman**. Then, if that is the standard, tell me what industry in the United States can compete against a similar industry someplace else in the world.

Mr. **Moore**. We can compete, for example, against industries that have very similar cost structures, concerns about the environment——

The **Chairman**. Oh, no; no. I understand that.

Mr. **Moore**. And capital costs, such as industries of Western Europe.

The **Chairman**. You are missing my point. Tell me what industries in the United States that can compete, whether it is steel or apparel or shipbuilding or avocados or textiles or apparel or copper against the Far Eastern countries. Is there any industry that can compete?

Mr. **Moore**. I am not sure there is, Senator.

Mr. **Nehmer**. That is right.

Mr. **Bishop**. Could I respond to that, too?

The **Chairman**. Yes.

Mr. **Bishop**. I don't believe there is. If China has the tools, they can outcompete us. We cannot compete with China on any product that requires labor.

The **Chairman**. Or capital and labor if they choose to pick out one or two industries that are capital intensive and say we will put capital in those industries; and we will forget some others. Then, even the capital-intensive industries can't compete.

Mr. **Bishop**. We cannot compete with them.

The **Chairman**. But then, Brought on, that is the ultimate decision; and we therefore say we won't compete. We will close the markets; we will put up the barriers.

Mr. **Bishop**. I spelled out my suggestion for policy, which you keep coming back to in all your questions.

If the United States will continue to share its markets with other countries to promote worldwide economic progress and to ensure competition in our own markets. The textile apparel industry is terribly competitive, just within our own markets.

No. 2, we should intend to share the orderly growth of our markets. I think that is a meaningful policy. I think that is a policy that the United States can follow in addressing this problem. This isn't a theoretical problem. This isn't philosophical. We haven't got a philosophical problem. We have got a real problem, and it is impacting all over the United States.

The third plank is, and it is following workable precepts of the multifiber arrangement, that we will not allow import surges to disrupt our markets in instances where the competitive factors are not evenly balanced or where national security is an overriding consideration. And that type of policy is implemented by bilateral agreements.

The discussion here this morning has been: What can we give away? I don't think we ought to give away anything. I don't think this country can keep on affording to give away.

The **Chairman**. Not what can we give away. It is: Can we compete internationally in their markets and ours on a level playing field; and I think the answer I am getting is "No."

Mr. BISHOP. You used the words "level playing field," and you also use "fair." And those are tricky words.

Is it a level playing field when in the United States the minimum wage mandated by law is $3.35 an hour and we are competing with China that is somewhere between 15 and 20 cents an hour? Is that fair? Is that a level playing field? What would you call that?

The CHAIRMAN. I think the answer is that the rules are the rules as we shall determine them, and the other countries must live by those rules.

Mr. BISHOP. Not in bilateral negotiations, not under the rules of GATT, and not under the MFA. That isn't just all unilateral action on the part of the United States. Other countries in this world are fighting tooth and nail to get as much advantage as they can get, and we should do the same.

The CHAIRMAN. I agree.

Mr. NEHMER. Senator, there are American industries that can compete on the basis of the assumption that you made: a level playing field, that is, no government subsidies. A prime example is the U.S. specialty steel industry, which is the most technologically advanced industry of its type in the world. It can compete, but it can never compete against foreign government subsidies. No industry can compete against foreign government subsidies or foreign company dumping if they want to get market share.

The CHAIRMAN. How does it manage to compete? Why can it compete?

Mr. NEHMER. It is a high-technology industry, and I suspect there are many other high-technology industries in this country which can compete, based upon a level playing field. The problem we have is that we know that the playing field is far from being level.

The CHAIRMAN. Mr. Greenwald.

Mr. GREENWALD. Mr. Chairman, I am sorry that I didn't rise to the defense of American industry. I really can't believe that you are concentrating on the textile industry?

The CHAIRMAN. Not necessarily because I mentioned shipbuilding. We don't compete in shipbuilding.

Mr. GREENWALD. All right. Well, shipbuilding, OK. That was even before textiles.

The CHAIRMAN. Avocados.

Mr. GREENWALD. But there are some industries which are highly competitive. Mr. Nehmer has mentioned one. We are still competitive in many other high technology, even manufacturing, industries, and obviously in the telecommunications and computer information industries. Those are all ones where we are still highly competitive around the world.

Now, there are problems as people have suggested about access to other markets. That is what is referred to as a level playing field problem. But if I may just go back to your philosophical problem, which I thought was resolved some time ago—you may want to change it now—but it is not the test of the market's disruption which is a concept which has been developed especially for the textile industry.

The concept is serious injury to domestic industry. That is what is in the escape clause in the GATT; that is what is in the escape clause in the United States. But it is also coupled with a concept of adjustment assistance, that you don't get permanent protection. If you have permanent protection, market organization for every industry in the world, then you are going to have a totally stagnant world economy, and I don't think that is in the U.S. interest or in the interest of the rest of the world.

So, somewhere in between what you have seen in textiles and what you are talking about in textiles and market disruption, which looks like a kind of permanent protection, and a system which I believe is the one that has been established and can work, which is a system of temporary protection where you do have serious injury demonstrated by public hearings and the usual process—the open process—that we have, and then that is applied temporarily. If the industry can then become competitive, then you have a degressive kind of protection. If it can't become competitive and it is not a national security problem, then you move your resources out of that into somewhere else to take advantage of this famous comparative advantage that we were talking about earlier.

The **Chairman**. Senator Baucus.

Senator **Baucus**. Then, Mr. Greenwald, if the industry is not pivotal to national security, then you feel that that industry should not be protected—say, if it could not be made competitive over 5, 6, or 10 years? And if the industry is not necessary to national security, then the protection that the United States may grant to the industry should no longer apply to that industry?

Mr. **Greenwald**. Either adjust to worldwide competition or to go out of the business.

Senator **Baucus**. Even where the competition is with countries that have much lower wage rates or even where the competition is with other countries that have very loose environmental standards?

Mr. **Greenwald**. Senator, if you call a level playing field trying to make equal all of the elements that go into international trade, you are not going to get any international trade. I mean, you are not going to have any comparative advantage if you dictate that all the wages must be the same and all of the OSHA and all of the environmental requirements are all the same. Then all you would be left with is climate—I suppose you can't change that—you can't make a level playing field out of climate; but to try to eliminate all of the differences is not going to get the best use of the world's resource either.

Senator **Baucus**. So, the answer to the question then is "Yes"? Even where the competition is with firms with very low wage rates or those that have very lax environmental controls?

Mr. **Greenwald**. Yes.

Senator **Baucus**. Still, under our hypothetical, that firm should be let go?

Mr. **Greenwald**. I would agree, yes. Low wages do not necessarily mean lowest wage cost. You may have productivity. You may have highly capitalized. You may be able to automate. All the factors that go into production.

Senator **Baucus**. Mr. Nehmer.

Mr. **Nehmer**. I disagree with my good friend and former colleague, Joe Greenwald. There are bases of concern which are jobs.

There are industries where it is necessary to keep those jobs, where there are no good alternative opportunities for those people, even though they may be at relatively low wage rates. And I am talking here about the apparel worker in the New York-New Jersey area or the textile worker in South Carolina, or the footwear worker in New England.

They are not going to go to Seattle, WA to assemble Boeing aircraft. And they may get a job in a McDonald's at a wage rate which may even be lower than the low rate that they are making, but jobs are very important.

Senator BAUCUS. Mr. Clark, should a new GATT authority include, at the very least, coordination with IMF, and the World Bank; or further, should new authority for World Bank and IMF loans be based on a country's adherence to GATT?

A JEC report, which I am sure you are aware of basically states that Latin America is able to service its debts because the money centers have conditioned new loans to those countries on increasing their exports to service the debt. One area, I think, is export subsidies or other kinds of governmental actions in those countries which may or may not violate GATT. It just seems to me that there should be much better coordination between World Bank and IMF loans and the GATT, if the GATT is going to make any sense.

I am just curious as to how far you think we should go in requiring money center loans to meet new provisions of the GATT which discourage rather than encourage these kinds of subsidies.

Mr. CLARK. Yes, Senator Baucus. I had never thought of it, but I think that is a very interesting idea. To the extent that trade barriers work against economic development and growth of the global economy, the bank loans could be conditional; and we actually have a very convenient way of doing it, if we think that is the way to go. We now have the so-called Structural Adjustment Loan Program in the World Bank, and we are building those in the Mexican agreement, for example. And it would be very convenient if we all agree it is the right thing to do for the World Bank to build in some conditionality in there on the GATT through the structural adjustment loans, or the banks could do it directly. That is an absolutely reasonable suggestion.

If we have a case where a country is in violation of some of its GATT agreements, we could definitely include that as part of the loan agreement. Yes, sir.

Senator BAUCUS. Thank you.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. One very general question and then a series of specific questions. Basic choice: do we try to reinvigorate the multilateral trading system, or do we try to set up a series of bilateral agreements with various countries around the world? And I would like to go down the line and have you say: Reinvigorate multilateral or bilateral deals. Mr. Bishop, I know your position. Mr. Greenwald.

Mr. GREENWALD. That is my position, too. I believe that in a multilateral world, you need a multilateral system.

Senator BRADLEY. All right. Mr. Nehmer or Mr. Moore. Only one of you need answer. [Laughter.]

Mr. NEHMER. We may have different answers.

Mr. **Moore**. I would opt for the bilateral system.

Senator **Bradley**. Bilateral?

Mr. **Nehmer**. See, we do have a different answer because I think some of our bilateral agreements, such as the United States-Israel free trade area agreement, is extremely harmful to the United States economy. I would certainly opt for the multilateral.

Senator **Bradley**. Mr. Norris.

Mr. **Norris**. Bilateral.

Senator **Bradley**. Mr. Bishop.

Mr. **Bishop**. Bilateral.

Senator **Bradley**. Mr. Clark.

Mr. **Clark**. I really don't have a strong feeling on that, Senator Bradley.

Senator **Bradley**. You don't have a strong feeling? Your testimony says that you think that it is essential that we keep the world markets open. Are you saying keep them open either way?

Mr. **Clark**. We work both ways, bilaterally and multilaterally, as a matter of fact. [Laughter.]

We have to keep national treatment in mind, here, and sometimes the bilateral approach is very useful to us.

Senator **Bradley**. I appreciate your candor.

Mr. **Bishop**. Could I amend mine? I don't think it is just one way or the other. In the MFA, just for example——

Senator **Bradley**. But I am dealing with an attitude that exists in Congress. Now, on the multilateral front, a number of specific suggestions have been made to strengthen the multilateral effort. Would you agree that we should have a permanent representative on the ministerial body under the GATT to push dispute settlement negotiations?

Mr. **Greenwald**. To improve the dispute settlement operations, yes.

Senator **Bradley**. Do you think we need a permanent roster of experts to provide institutional memory for panels that sit on various sectors?

Mr. **Greenwald**. Yes.

Senator **Bradley**. I am taking everyone as saying yes.

Mr. **Bishop**. What is that question?

Senator **Bradley**. You would have said yes, I think. [Laughter.]

Mr. **Bishop**. No; I am not sure I would rotate them.

Mr. **Nehmer**. I would rotate them, Senator.

Senator **Bradley**. What about GATT agreement for signatories, countries that are part of the GATT, to impose a small nondiscriminatory across-the-board adjustment fee to help troubled industries adjust to world competition?

Mr. **Bishop**. No.

Senator **Bradley**. No?

Mr. **Greenwald**. Can you keep it small?

Senator **Bradley**. Small? Yes. We would only do it if it were small.

Mr. **Bishop**. You can't mandate or help industries adjust to competition.

Senator **Bradley**. Do you think the GATT Secretariat should have a stronger oversight role, information clearinghouse, greater transparency, greater surveillance, et cetera?

Mr. **Greenwald**. Monitoring trade developments.

Senator **Bradley**. And publishing it widely so that we know what Brazil does or what Japan does; that we invite third parties to tattle on various countries?

Mr. **Moore**. I would say only if you can ensure their objectivity in doing so.

Senator **Bradley**. All right.

Mr. **Moore**. We have had some real problems with their reporting on textile developments.

The **Chairman**. Gentlemen, thank you very much. We appreciate it. Now, we will take Thomas Donahue, secretary-treasurer of the AFL-CIO. Mr. Donahue, go right ahead.

Let me say again all the statements of the witnesses will be included in the record in full, and if you could please confine yourselves to the time limits we asked.

STATEMENT OF THOMAS R. DONAHUE, SECRETARY-TREASURER, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, WASHINGTON, DC, ACCOMPANIED BY DR. RUDY OSWALD, DIRECTOR, DEPARTMENT OF ECONOMIC RESEARCH AND BOB McLAUGHTON, DIRECTOR OF LEGISLATION

Mr. **Donahue**. Good morning, Mr. Chairman, thank you. For the record, I am Tom Donahue, secretary-treasurer of the AFL-CIO. I am accompanied by Dr. Rudy Oswald on my right, the director of economic research, of the AFL-CIO, and Bob McLaughton, on my left, director of legislation. You have, as you indicated, Mr. Chairman, the full statement of our views with a four-page list of our suggestions for reform of trade legislation.

I would like, in the 3 minutes allotted, to simply highlight those views. We believe very strongly, Mr. Chairman, that the absence of a strong U.S. trade policy designed to advance the interests of the Nation and its workers, has contributed significantly to the sharp deterioration of our international economic position and has left scores of our industries and millions of workers defenseless against plant closings, bankruptcies, farm foreclosures, and recessionary unemployment levels.

We continue to be skeptical, Mr. Chairman, about a new round of multilateral trade negotiations. We are concerned that those negotiations will be considered by the administration to be a substitute for urgently needed actions to remedy the injury to domestic industries and workers caused by a massive trade imbalance.

We do not oppose trade negotiations in and of themselves. We are negotiators. Negotiations, however, can't provide the relief that is essential to the survival of our industries and to the survival of the jobs of the workers in the United States. Reform legislation is required to ensure that effective national policies are developed and implemented and it is an essential guide to those who will be involved in any negotiations.

I shall not, Mr. Chairman—and I am sure there is no need to—recite the statistics for you of trade deficits, manufactured goods deficits, our unemployment levels, the loss of millions and millions of jobs. Everybody in America knows and is worried about those horror stories.

But now, against that background, we are told the overwhelming advice of the private sectors advises to the contrary, notwithstanding, we are told that we should press forward for trade negotiations designed to reduce our tariffs to ease whatever minor safeguard restrictions we have—all in the hope that our trading partners might somehow ease up a bit on their tariff and nontariff barriers, reduce their industrial targetting, stop their dumping, open their markets, and then give us additional access to their markets for services and investment, which will create little if any U.S. employment.

We believe, Mr. Chairman, the Senate needs to address the problem of trade policy before any negotiations take place. We believe this committee should move to mark up a trade bill along the general lines of the House bill and should report that bill before the Labor Day break if it is at all possible. We believe that that bill should be generally along the lines of the House bill. It should provide for a reduction in unwarranted trade surpluses. It should require effective worker rights provisions, provide effective relief from injury, protection from unfair trade practices, and, finally, it should provide appropriate directions to the negotiators in the new round and essential restrictions on any authority given to them.

We think, Mr. Chairman, that the reduction of the trade deficits is essential. We think that the establishment of worker rights in trade legislation is essential. And we believe that our goals in those negotiations should be the adoption of international worker rights in the GATT, correcting the inadequacies of the safeguard proposal, the enforcement of the GATT codes, changes in GATT rules concerning the treatment of taxes, and some sort of address to the serious problem of intellectual property rights and counterfeiting. We are adamantly opposed to tariff cutting for import-sensitive products, and we think the emphasis on negotiations for services and investment should be redirected.

Mr. Chairman, in answer to the question you were asking earlier, we believe that the goal of our negotiations ought not to be some idealized view of a world of free, fair trade. The goal ought to be to fulfill the purpose for which nations are founded: to advance the interests of the people whom they house with due regard to the rights and interests of all others in a world. And that ought to be the guiding rule for the development of trade legislation and for our conduct in future trade negotiations.

The CHAIRMAN. Senator Heinz.

[The prepared written statement of Mr. Donahue follows:]

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TESTIMONY OF THOMAS R. DONAHUE, SECRETARY-TREASURER AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE COMMITTEE ON FINANCE, UNITED STATES SENATE, ON TRADE REFORM LEGISLATION

July 23, 1986

Mr. Chairman, members of the Committee, I appreciate this opportunity to present the views of the AFL-CIO on a new round of multilateral trade negotiations as well as legislative changes we believe are necessary to improve the operation of U.S. trade law and build the foundation of a new national policy that will begin to reverse America's percipitous decline in international trade.

The absence of a strong and predictable U.S. trade policy has contributed significantly to the sharp deterioration of the international economic position of the United States. Scores of domestic industries and millions of American workers have been left defenseless against an onslaught of imports spurred by foreign government practices and the vagaries of U.S. macro-economic policy. The consequences of this policy of neglect are being felt in all sectors of the economy through plant closings, bankruptcies, farm foreclosures and recessionary unemployment levels. The Maine shoemaker, the Ohio machinist, the Kansas farmer, and even the so-called high-tech worker in the Silicon Valley have all learned the lessons of international commerce -- lessons learned not from textbooks or endless international negotiations, but from lost jobs, lost income, lost dignity and devastated communities in every part of the United States.

Workers know the United States is facing a national crisis because of international trade. They have known that for some time. Those workers welcome these hearings as the continuation of a process begun with the passage of the International Economic Policy Reform Act of 1986 by the House of Representatives on May 22. They expect the Senate to move with all due speed to insure the adoption of comprehensive trade reform legislation during this session of Congress, despite the opposition of an Administration which continues to rely on a "business as usual program."

In early 1986, as America was recording trade deficits that would have been unthinkable not too many years ago, President Reagan, in his annual Economic Report of the President, wrote: "Our international trade policy rests firmly on the foundation of free and open markets. The benefits of free trade are well known: it generates more jobs, a more productive use of a nation's resources, more rapid innovation, and high standards of living both for this nation and its trading partners." The Council of Economic Advisers, in the body of the report, elaborated on this theme, saying that job losses in the industrial sector were simply the result of improved efficiency and high wages, and that anyone who suggested otherwise has "an inadequate understanding of the benefits of trade."

For the millions of workers whose jobs were lost to imports or declining exports, this explanation provides little comfort. The shoeworker knows she is not overpaid at $6 an hour. The semiconductor worker knows he was efficient, but was still replaced by foreign production. With the Administration explanations, we have opened a sad new chapter in national policy of "blame America first." The failures of government are papered over by criticizing the victim.

Where are the free and open markets on which President Reagan bases his trade policy? Do they exist in Japan, the European Community, Brazil, Taiwan or Mexico? Are free and open markets defined by quotas, stringent inspection requirements, discriminatory standards, export subsidies and incentives, industrial targeting programs, buy-national policies, export performance requirements, barter agreements and co-production requirements?

Where are the jobs this policy claims to generate? In June of this year, unemployment stood at 7.1 percent, which translates into 8.4 million Americans officially out of work and another 6.6 million either too discouraged to seek employment or forced to work part-time. The year 1985 was one of nine post-World War II years with an unemployment rate above 7 percent, and five of those years were the years 1981 through 1985 when the current

Administration was resting its trade policy firmly on the foundation of free and open markets.

The Department of Commerce estimated in January of this year that in 1984 alone 2.3 million jobs in manufacturing were displaced by trade, with a net loss of 1.1 million for the economy as a whole. In a study on displaced workers, the Bureau of Labor Statistics reported that between 1979 and 1984, 11.5 million workers lost their jobs to plant closure, slack work or layoffs -- years when our trade deficit was growing dramatically. Twenty-five percent of those 11.5 million are still looking for work and 15 percent have left the labor force entirely.

The Administration believes that current trade policy generates a more productive use of this nation's resources and more rapid innovation. Is unemployment now productive? Does a highly skilled machinist contribute more to this nation's wealth in a retail store than he did making sophisticated machinery? How does innovation benefit the United States if new technology is licensed or sold to foreign concerns or the production of innovative goods is transferred overseas?

The Administration asserts that reliance on free trade principles results in higher standards of living both for this nation and its trading partners. The average weekly earnings for U.S. non-supervisory production employees have declined more than 9 percent from 1977 to 1985 in constant dollars. The reduction of employment in manufacturing and the growth of jobs in services have no doubt contributed to this decline. Average weekly earnings for manufacturing workers in 1985 reached $386. For workers in finance, insurance and real estate, the average was $289. Workers in retail trade averaged $177, and employees in other types of service industries received $261. In the BLS study mentioned above, almost one-half of the displaced manufacturing workers who were fortunate enough to find alternative employment were forced to accept lower pay.

Family share of national income has also undergone a shift. For the period 1980 to 1984, the top 20 percent increased its share of national income by 1.3 percent while everyone else's share declined.

Similarly, the benefits derived by other countries from U.S. reliance on free trade bear careful scrutiny. Who gains from the assembly of electronic components in less developed countries? Not the worker who is frequently prohibited from organizing and bargaining collectively and is paid subsistence wages or less in an unhealthy or dangerous work environment. In sum, even if one accepts the notion that free trade contributes to rising living standards, it is clear that any benefits are poorly distributed, and those who can least afford it bear the principal cost of this policy.

The mystical dream world of "free trade" of which this Administration stands enchanted, is a world that never was and never will be. We challenge anyone to name for me a single product, commodity or service, including money, that moves in commerce under conditions that Adam Smith or David Ricardo would have recognized as free trade, unlevered by state policy or intervention. Our confidence in that challenge is reinforced by the knowledge -- to which Administration officials are selectively oblivious -- that much of this world disavows a market economy altogether. Even more of it practices the most brutal form of protectionism -- the protection of mercantile power and profit.

The growth of world trade did not reflect "open trading" so much as it represented "directed trading" in support of national development goals or the trade of multinational corporations which moved labor-intensive production to low-wage countries or which were drawn into direct foreign investment in order to sell in foreign markets.

A widely shared perspective among our trading partners has been, in effect, "buy from the United States what you need in order to acquire the technology and essentials to develop your own economy and treat the large U.S. market as a stepping stone to economies of scale and 'international competitiveness'." "Open," "closed," "free trade" and "protectionist" are all highly charged words that are not relevant in discussing international trade today. There is a good deal of trade, but it is, by everyone except the United States, guided and regulated by national objectives.

The dimensions of the problem are startling. The U.S. merchandise trade deficit in 1985 was 3½ times higher than in 1980. For manufactured goods alone, America has gone from a surplus of $12 billion in 1980 to a deficit last year that reached $113 billion. During this period, exports fell 2.5 percent while imports of manufactured products shot up an astonishing 96 percent. In 1985, the import share of the U.S. market reached 50 percent for apparel, 23 percent for autos, 36 percent for machine tools, 25 percent for steel, and more than 75 percent for shoes. Trade deficits were experienced even in advanced products like semiconductors and telecommunications equipment.

In fact, the numbers have become so large, there is a tendency to become numbed by the enormity of the shift in U.S. trade patterns and to find hope in any light that might appear on the trade horizon. For example, in reporting on the release of February's trade numbers, the Journal of Commerce's front page headline read "U.S. Trade Deficit Shrinks." While lower than the deficits recorded in the previous few months, it still totaled $12.5 billion. Further, this "improving" deficit was 25 percent higher than that recorded in February a year ago. Through May of this year, the deficit remains 25 percent higher than the level reached in the same period during 1985. Even U.S. agricultural trade has slipped into deficit. Exports fell 3.7 percent while imports increased by 7.2 percent. At this rate, the U.S. trade deficit for 1986 will reach $167 billion with manufactured goods accounting for $135 billion.

Similarly, many are reassured that the U.S. trade problem will soon be history now that the dollar has begun to decline. What is frequently left unsaid is that the dollar remains some 35 percent higher against the currencies of our major trading partners than it was in 1980. In fact, the dollar has continued to appreciate somewhat against the currencies of Canada, Mexico and Brazil. Even if the dollar stabilized or continued to fall, a scenario that is by no means certain, its impact on the U.S. trade deficit would not necessarily be large. Over the past 5 years, U.S. bilateral trade deficits grew substantially with countries like Taiwan and South Korea who essentially tie their currencies to the United States. The U.S. bilateral trade deficit with Japan more than doubled even though the dollar had appreciated only marginally against the yen. Now that the dollar has fallen against the yen, there is similarly little assurance that this alone will reduce the U.S. deficit. In a recent article published in Japan's Ashi Shumbun newspaper, Japanese industry and government officials were quoted as saying that the change in the yen/dollar relationship would probably not affect Japanese trade significantly. As reasons, they cited Japan's export-oriented industrial structure and Japanese dominance in foreign markets which leave consumers little alternative. In addition, many U.S.-based multinational corporations which used to produce goods domestically now buy parts and half-finished products from Japan. On the import side, an official of the Ministry of Trade and Industry (MITI) noted that primary products make up almost 70 percent of Japan's imports and stated "nobody would want to eat more even if imported agricultural products become cheaper."

Changes in exchange rates or multilateral trade negotiations will not by themselves provide the solution to America's trade crisis. Changes in trade law and policy are urgently needed to provide predictable relief to industries and workers injured by imports; to mandate governmental action when U.S. commerce is negatively affected by unreasonable or discriminatory practices of foreign governments; and to require countries that enjoy unwarranted trade surpluses with the United States and maintain barriers to U.S. goods to begin to reduce those excessive surpluses.

These economic realities make the work of this Committee truly urgent. During my time today, I will only highlight some of our principal concerns, but I urge the Committee to carefully review all of our proposals, which are attached. The AFL-CIO believes that any trade legislation should include:

-- Provisions to reduce unwarranted trade surpluses with the United States;

-- Effective worker rights provisions;

-- Trade law reform, providing more effective relief from injury by imports and protection from unfair trade practices;

-- Adequate safeguards in any new round of trade negotiations.

Trade Deficit Reduction

Specific procedures need to be adopted to provide a greater certainty of response on the part of the U.S. government toward countries that maintain both excessive trade surpluses with the United States and a pattern of unreasonable or discriminatory trade practices. Countries so identified should be required to eliminate their unfair trade practices or gradually reduce their surplus with the United States by opening their markets to U.S. exports or reducing their own exports to this market. Failure to meet established goals should result in a series of escalating governmental responses.

The House-passed bill addresses this issue by amending Section 301 to require, after a period of negotiation, a modest 10 percent reduction annually in a country's surplus if the two tests are met. Further, application of the provision could be waived by the President if it would harm the U.S. economy or if the country in question has a balance of payments problem.

For example, if Japan were identified under this provision, it would require the reduction of Japan's surplus with the U.S. from the current level of $50 billion to a level of about $33 billion by the end of 1990. This is hardly draconian and is little different from the already expressed ambition of both Japan and the United States. This change in law would merely provide leverage to the Administration to accomplish what years of discussion and negotiation have failed to achieve.

Worker Rights

Section 301 should also be amended to define as an unreasonable act, policy or practice the failure on the part of a country to take steps to adopt internationally recognized worker rights, as contained in Title V of the Trade Agreements Act of 1984 . Failure to take such steps would result in the denial of most-favored-nation treatment as long as that country remained out of compliance. The House trade bill moves in this direction by making the denial of worker rights an actionable practice under Section 301, although any retaliatory action is discretionary. The AFL-CIO strongly believes that competitive advantage in trade should not be derived from the denial of the right to freedom of association, the refusal to insure a safe work environment, the exploitation of child labor or other such reprehensible practices.

Injury Relief

The "escape clause" (Section 201 of the Trade Act of 1974) was designed to provide a safety valve for those industries threatened with or experiencing serious injury from imports. Of the more than 55 cases filed since this provision became part of law, only 13 have resulted in any relief. Even in these cases, the relief has rarely been enough to allow the injured industry to fully recover from the import assault. To improve the functioning of this provision, the standard used by the International Trade Commission (ITC) in finding injury should be changed to the GATT standard under which imports must be a cause (rather than a sustantial cause) of serious injury or threat thereof. In the event of an affirmative finding of injury by the ITC, trade adjustment assistance should be automatically provided. We believe that while the U.S. Trade Representative (USTR) should have the discretion to modify that recommendation, including the authority to negotiate Orderly Marketing Agreements, the USTR must be required to take some action to provide relief which fully redresses the injury.

Further, petitioners should have the option of requesting the establishment of an industry advisory group made up of representatives from business, labor and government to develop a plan to improve an industry's competitiveness. While the ITC should be required to take into account a group's plan in making its recommendation, the absence of a group or plan should not prejudice the ITC's decision.

Unfair Trade Practices

Section 301 provides the President with broad authority to take action against foreign countries whose practices burden, restrict or discriminate against U.S. commerce. While in recent months the Administration has initiated some actions against countries with unreasonable and unjustifiable practices, the United States must go beyond symbolic actions and vigorously pursue foreign practices that are harmful to U.S. domestic interests.

Among needed changes, which we cite in the Appendix to this statment, we strongly support provisions that would require action in response to foreign industrial targeting that causes or threatens to cause material injury. We must not allow domestic industry to fall victim to the coordinated and predatory practices of other countries.

For all these reasons, we urge the Senate to proceed rapidly with the enactment of comprehensive trade reform legislation along the lines of the House-passed International Economic Policy Reform Act of 1986.

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New Trade Round Objectives

The AFL-CIO continues to be skeptical over the appropriateness of embarking on a new round of multilateral trade negotiations. Negotiations will not create or implement an effective national trade policy or reduce America's huge trade deficits. We are principally concerned that negotiations will be considered by the Administration as a substitute for urgently needed action to remedy the injury to domestic industry and workers caused by America's massive trade imbalance. This concern is heightened by the Administration's antagonism to virtually all trade reform legislation pending before the Senate and its vehement opposition to the House-passed Trade and International Economic Policy Reform Act of 1986. The Federation believes that this bill not only would provide some immediate relief from the nation's trade problems, but also goes a long way to forming the foundation of an effective national policy for years to come. With such legislation in place negotiations could then address the further problems confronting the U.S. in trade. With such a foundation, attention in the negotiations should be directed at the following areas:

First, GATT rules must be amended to include provisions that would address trade advantages gained by the denial of worker rights or the maintenance of repressive working conditions. This is not a new issue. The Trade Act of 1974 directed the President to seek the adoption of international fair labor standards in the GATT. Regrettably the need for such a provision has not lessened in the intervening years, and success in this Round will require a major commitment on the part of the U.S. government. In this regard, the AFL-CIO is gratified that USTR is seeking the inclusion of worker rights issues on the agenda for the new Round. We are alarmed, however, by recent statements by some in the Administration concerning the House-passed trade bill attacking the very concept of a connection between worker rights and trade. How can this issue be pursued internationally, and assailed domestically?

The adoption of worker rights in domestic trade law will only strengthen U.S. efforts to reach an international understanding in the GATT. In fact, this strategy was followed by the Administration with regard to trade in services. Though not currently covered by the GATT, authority to take action on trade in services was both provided by Congress and used by the Administration. Worker rights deserve nothing less.

Second, the inadequacies of the GATT safeguard procedures need to be addressed. The U.S. should concentrate on exposing trade restrictive measures employed throughout the world and should develop procedures for negotiating agreements that would bring some order and stability to trade in import-sensitive products, as well as products and commodities where worldwide excess capacity exists.

Third, the benefits anticipated from the various codes agreed to in the last round of negotiations have not been realized because barriers to U.S. exports remain in place while the U.S. market has been further opened to imports. Of particular concern, the Government Procurement Code should be renegotiated to provide true reciprocal market access with no increase in U.S. coverage. The Codes should either be enforced or scrapped.

Fourth, the disadvantage faced by U.S. producers as a result of current GATT rules on border tax adjustment should be eliminated by means of appropriate changes to the GATT. As with worker rights, this revision of GATT articles was an unfulfilled U.S. objective in the Tokyo Round, and should be pursued vigorously.

Finally, solutions to the serious problems faced by U.S. industry in the area of counterfeiting and intellectual property rights need to be found.

While we are pleased that many of these objectives for a new round are shared by the Administration, we continue to be concerned over the priority given to negotiations on services and investment by the U.S. government. The principal trade problem facing the U.S. is undeniably the massive shift that has occurred in trade in the manufacturing sector and the resultant loss of employment. Emphasis on "liberalizing" trade in services and investment flows will have little impact on this central issue, and may in fact accelerate the deterioration of the domestic manufacturing sector if essential U.S. protections in the goods area are sacrificed as the price for reductions in barriers to services and investment. Further, what may appear to some as "barriers" to service trade or international investment are in fact proper and even essential social and economic policies in both the U.S. and foreign economies. Banking and insurance regulations, protections of personal privacy, immigration rules and restrictions, and standards for lawyers, doctors and accountants are but a few examples.

While the unrestricted flows of services and investment may be important to certain corporate interests, this does not make it significant for the economy as a whole. Since to a large degree services must be produced where they are consumed, any U.S. employment gains from increases in service trade would be marginal at best. The growth of service sector employment domestically has been in areas of service which are not in any way related to international trade.

Similarly, negotiations aimed at easing restrictions on international investment will do little to promote domestic economic growth and employment. Where foreign practices, like export performance requirements, have a direct impact on U.S. trade, steps should be undertaken to protect domestic interests.

The AFL-CIO is also concerned over the possibility of reductions in U.S. tariff rates. We are adamantly opposed to any tariff cutting for import-sensitive products. A range of industries have already been seriously harmed by imports, and reductions in tariffs would only aggravate their difficulties.

Finally, proposals advanced by some nations in preliminary talks that would require a standstill and/or rollback in so-called trade restrictive measures as a precondition for any multilateral negotiations are central to labor's concerns. The U.S. must not relinquish its right to take needed actions at the national level to defend domestic industry.

America needs to explore a more realistic general framework for coordinating world trade relationships in sectors characterized by global overcapacity and widespread import controls. The United States operates as if the trade-regulating measures of other countries do not exist or as if they were irrelevant in determining whether trade is likely to injure U.S. workers and industries.

The AFL-CIO does not oppose trade negotiations in and of themselves. Negotiations, however, cannot provide the relief that is essential to the survival of trade impacted industries and their workers in the U.S. Trade reform legislation is required to insure that effective national policies are implemented. These two approaches are not mutually exclusive; they are complementary.

That covers the highlights of our proposals. We, of course, stand ready to discuss them with you in greater detail at any time.

Attachment

AFL-CIO SUGGESTIONS FOR TRADE REFORM LEGISLATION

I. Section 201

A. Change the standard for a finding of injury to the GATT standard where imports must be a cause of serious injury or threat thereof with the term "cause" defined as a cause which is important, even though other causes are of equal or greater importance.

B. Change domestic industry to include suppliers of materials, parts, components, or subassemblies incorporated in an article like or directly competitive with the imported article.

C. For domestic producers who import like or directly competitive articles, the ITC shall only consider the domestic production as the industry and shall not consider imports by domestic producers as a factor indicating the absence of serious injury or threat thereof to the industry.

D. With respect to serious injury amend factors considered by the ITC to read "the inability of a significant number of firms to operate domestic production facilities at a reasonable level of profit."

E. With respect to threat of serious injury, the following additional factors shall be used in an ITC determination: plant closings; increase in market share; foreign industrial targeting; and the extent to which diversion of exports to the U.S. market occurs because access to other markets is restricted.

F. With respect to relief options, the ITC should be able to recommend tariffs, quotas, domestic content, OMAs, to prevent or remedy injury, and adjustment assistance that would assist in remedying the injury.

G. If unfair trade practices are uncovered in the investigation, appropriate authorities must be required to initiate anti-dumping or countervailing duty actions.

H. If critical circumstances are found to exist, provisional relief measures can be put into effect pending a final determination.

I. In the event of an affirmative finding of injury by the ITC, USTR should be required to provide trade adjustment assistance. USTR should retain the discretion to modify the ITC's recommendation, including the negotiation of OMAs, in order to obtain equivalent relief. Failure on the part of USTR to provide equivalent relief by alternative actions within 6 months should result in the implementation of the ITC recommendation.

J. Firms and workers should have the option of requesting the establishment of an industry advisory group to develop a plan to improve an industry's competitiveness. The absence of such a request should not be a factor in any determination made under this section, but the ITC should be required to take into account a group's plan in making its recommendation.

II. Section 301

A. Industrial Targeting

1. Provide USTR with the authority to take action in response to industrial targeting that causes or threatens to cause material injury.

2. Remedies to include tariffs, import restrictions, orderly marketing agreement or other domestic measures.

3. In the event of an affirmative finding, USTR must take action to fully offset the material injury or threat from such injurious industrial targeting.

4. The best available evidence should be used in an investigation, with a preliminary decision required in 5 months and a final decision in 11 months.

5. In the event of a finding of injury, trade adjustment assistance must be provided.

B. Worker Rights

1. Amend Section 301 to define failure to take steps to meet internationally recognized worker rights as defined in Title V of 1984 as an unreasonable act, policy or practice.

2. Action under this provision may be commenced by either petition or by the USTR.

3. Upon commencement of an action, the USTR shall investigate whether the country named is denying worker rights (11 months).

4. Affirmative decision by USTR shall result in the denial of most-favored-nation treatment as long as the country remains out of compliance.

5. Findings by USTR shall be subject to the Administrative Procedure Act.

6. All determinations shall be reviewed on an annual basis in order to determine if such country has taken any additional steps as required by the statute.

7. Failure by a country to take such additional steps shall result in continued denial of most-favored-nation treatment.

III. Trade Deficit Reduction

1. Procedures should be established to provide greater certainty of response on the part of the U.S. government toward countries that maintain both unwarranted trade surpluses with the United States and unreasonable and discriminatory trade practices.

2. An investigation period would be provided in order to determine which countries maintain both unreasonable and discriminatory trade practices as well as an unwarranted trade surplus with the United States. Such investigation would be based on the

annual National Trade Estimates Report as required by the Congress in the Trade Agreements Act of 1984. Unwarranted trade surpluses would be defined as a ratio of exports to the U.S. to imports from the U.S. of 175 percent (non-petroleum merchandise trade) or more.

3. Each country so identified would be required to reduce its 1985 surplus with the U.S. by 5 percent in calendar year 1986 and by 10 percent in each successive year until the U.S. trade deficit as a proportion of GNP is 1.5 percent or less, or such country's ratio falls below 175 percent.

4. Failure to achieve the deficit reduction goal in calendar year 1986 would subject said country to a series of escalating governmental responses.

5. The President would be provided with authority to waive the imposition of any or all remedies in the event that he determines that such waiver is in the national economic interest or an identified country is experiencing balance of payments problems.

IV. Section 232

Time limits for action should be required.

V. Section 122

A. Balance of payments disequilibrium should be defined as a current account imbalance that exceeds one percent of GNP for 18 months.

B. The limitation on the level of the import surcharge should be removed and the time period extended to one year with provisions for further extension by legislation.

VI. Countervailing and Anti-dumping Duties

A. Criteria for determining injury should be expanded to include the existence of foreign industrial targeting and third country import restraints causing diversion to U.S.

B. In order to gain benefit of the injury test, a country must sign GATT subsidies code with compliance reviewed annually by U.S.

C. Natural resource subsidies should be actionable under countervailing duty laws.

D. In the event of a finding of injury, trade adjustment assistance must be provided.

VII. Transfer of Authority

Transfer the ultimate decision making authority from the President to USTR for the Administration of Section 201, Section 301, Section 337, Section 406, and GSP.

VIII. Principal New Round Objectives

A. Worker rights.

B. Greater transparency of safeguard actions with procedures for negotiating OMAs.

C. Enforcement of GATT codes.

D. Change in GATT rules on taxes.

E. Greater protection for intellectual property rights.

IX. New Round Authority

A. Non-tariff negotiating authority for an additional 3 years.

B. Implementation authority tied to monetary conference and exchange rate stabilization.

Senator **Heinz**. Mr. Chairman, thank you. I would just ask unanimous consent to put my statement into the record. If I might speak for 30 seconds, Mr. Chairman, I just want to say that I supported the Tokyo round, but I don't think that anybody has done any analysis of the extent to which our trade concessions allowed us to reap the benefits of what we thought were going to be freer and fairer trade; and until we do that, I think we should keep additional negotiating authority on a tight leash.

Second, if I have reservations about a new round, it is also in part based on the reluctance of the administration to have a trade policy. And I elaborate on that in my statement. Thank you, Mr. Chairman.

The **Chairman**. Thank you. Mr. Donahue, give me that concluding statement again. If we have any policy, it should not be for an idealized full and free trade but should be—and then I didn't quite follow that.

Mr. **Donahue**. The policy, Mr. Chairman, which is grounded in the reasons why nations are created to protect the people within those nations and advance their interests. We do not live in a world without national boundaries or without national interests, and yet we persist in refusing to advance our own.

The **Chairman**. Now, assuming the nation is a free nation, can it choose to advance its interests as it sees fit?

Mr. **Donahue**. I think within certain boundaries that is what nations do, Mr. Chairman. I said those interests have to be advanced with due regard for the rights of others in the world in which we live and in which we trade.

But I do not believe, Mr. Chairman, in the line of questioning you were pursuing before, that this is a black-and-white issue, that we have a protectionist policy, so-called, or a free trade policy, so-called. This is an enormously complicated world and subject, and we ought to be bright enough and adroit enough to negotiate conditions under which our industries can prosper and under which our people can work and have jobs.

And that ought to be the goal of trade legislation and the goal of trade negotiations.

The **Chairman**. As I understand—let's go back to Hong Kong again—it is still a crown colony. Tell me what its rights for collective bargaining are. Do they roughly follow Britain's? Can you have unions in Hong Kong?

Mr. **Donahue**. Yes, sir. There is a trade union movement in Hong Kong.

The **Chairman**. A free trade union movement?

Mr. **Donahue**. A free trade union movement.

The **Chairman**. So, they can bargain for whatever working wages they can get and working conditions?

Mr. **Donahue**. Yes, sir.

The **Chairman**. All right.

Mr. **Donahue**. Within whatever strength they can exercise in that free market.

The **Chairman**. Yes, I understand that; and they are a free market. Now, given that, why shouldn't we allow Hong Kong to sell what they want here if they allow us to sell what we want there?

Mr. DONAHUE. I would revert to the earlier discussion you had, Senator. We ought to sell there; they ought to sell here. We ought to share our markets with those who allow us to share their markets. We need, beyond that, to have the skill to figure out how we do that while not injuring our interests and not injuring American workers and their prospects for employment.

The CHAIRMAN. Just Hong Kong—are you satisfied to let them sell here what they can sell here?

Mr. DONAHUE. Within limits. Within the limits that you were discussing earlier.

The CHAIRMAN. What do you mean?

Mr. DONAHUE. I would place a limit when their selling here causes a massive displacement, a market disruption as you were discussing it. When it causes a clear injury to American workers, that cannot be adjusted for and for which alternatives cannot be provided, then we need to protect the jobs of American workers.

The CHAIRMAN. All right. That is what I wanted to know. So, even though they are a free country with a free union movement, bargaining freely, and they observe what they think is good for their country and they don't discriminate against our goods, if their freedom and their competition is likely to cost us jobs, then that is the limit beyond which we will not go?

Mr. DONAHUE. Yes; because we ought to be smart enough to look at their bargaining—the freedom with which they bargain, the economic conditions in which they bargain, and the results of that bargaining, the influx of Chinese workers, or the other complications that exist in Hong Kong, and the result of that bargaining. Is it a strong trade union movement? Is it adequately protecting? Those are things that we ought to look at and adjust for.

The CHAIRMAN. By our standards?

Mr. DONAHUE. Yes, sir; by our standards, rather than theirs. Absolutely.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. I wonder, Mr. Donahue, if you could be more explicit. To what degree should worker rights be a factor in determining what action we do or do not take? Could you isolate various worker rights provisions under that general umbrella? One example would be wages, another might be the right to bargain?

Mr. DONAHUE. No, sir.

Senator BAUCUS. Then what are they?

Mr. DONAHUE. No, sir. Our testimony speaks to worker rights, and we have consistently spoken in this forum and in the ILO to a definition of worker rights in terms of a recognition of the right of workers to freedom of association, their rights to collective bargaining, to their rights to work in a reasonably safe and healthful environment, their rights to form their unions and bargain for their conditions.

We have never, never proposed a uniform minimum wage law for the world or uniform conditions for the world.

Senator BAUCUS. Are wages relevant?

Mr. DONAHUE. Yes; of course. Yes, sir.

Senator BAUCUS. How relevant?

Mr. DONAHUE. The question——

Senator BAUCUS. I will give you an example—an actual case. A company makes matchbox toys. They had, and they may still have, several plants in the New York-New Jersey area, where they paid $9.25 an hour to a worker who put a set of wheels on a matchbox truck. That is $9.25 before fringes. This very same firm operates in Hong Kong, where they pay an employee $1.25 an hour, excluding fringes for the exact same procedure. The same company has a firm in China, where they pay two bits an hour for that procedure.

Let's assume that the Hong Kong company is unionized, this company that they bargain collectively, and that working conditions are good. They may not meet OSHA standards, but they are still very good. Would that lower wage rate be a reason for this country to impose some kind of a trade barrier?

Mr. DONAHUE. Not in the circumstances you outline. No, sir.

Senator BAUCUS. Why is that?

Mr. DONAHUE. Because, as I said, I don't think that we have ever asked that those worker rights provisions, try to standardize wages or judge within tolerable limits, what those wages are. Let me just respond to your question.

Senator BAUCUS. Sure.

Mr. DONAHUE. In the question of China, should you tell me that there is a free trade movement in China which bargains collectively and has established 25 cents as a fair rate of pay—I don't think you would.

Senator BAUCUS. All right.

Mr. DONAHUE. Then, I think it is relevant. So, the question is not is there a trade union movement. The question is: Does that trade union movement have the right to address these issues and bargain in some reasonable—with some reasonable degree of freedom?

Senator BAUCUS. All right.

Mr. DONAHUE. There are other nations you would cite in the free world where the same comparisons could be offered.

Senator BAUCUS. I understand. I am just trying to understand your position. You are saying that, where there is good-faith, fair bargaining between management and labor, and where the bargaining agreement provides for very, low wages—so low that the U.S. firm just can't possibly compete—then that is OK?

Mr. DONAHUE. I don't think that can be the basis then upon which we say we ought to apply worker rights provisions and take away most-favored-nation treatment from that product.

Senator BAUCUS. All right. Thank you.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. Thank you, Mr. Chairman. I would like to just address this question generally to the panel, and any or all or one or three could deal with it. We heard in the earlier testimony that the way we have handled the debt crisis has cost about a million American jobs through increased imports and from loss of export markets.

This is a hearing preparatory to a decision about a new round of multilateral trade talks. Would it make sense to you to tie or make a part of the multilateral trade round a negotiation on debt, so that the, say, Latin American countries would have less debt to pay, less pressure to export, to us, and that they would have more room to grow domestically, more room to purchase United States imports? Does it generally make sense to you to try to deal with the debt component of the problem as I think that your testimony indicates? It clearly makes sense to you to put up barriers to prevent the imports from coming in.

Does it make sense to try to preempt that by dealing with the problem in these countries, which is the big debt?

Mr. DONAHUE. Yes. Senator, I don't know exactly how one would link those two, but the answer to the question is yes. We would share the view that it would be useful to combine discussions on debt with negotiations on GATT in a GATT round, and as well to include in those discussions on debt, discussions on exchange rates, because I think all of those things are related.

We have read with great interest the Bradley proposals and think rather kindly of them. And we will be considering at our council meeting in August—the first week in August—that question and trying to draw support for those proposals.

Senator BRADLEY. If you need a speaker, let me know. [Laughter.]

Mr. DONAHUE. I think, Senator, those proposals give us the ability to say something in the developing world other than "You should export more and have greater austerity so you can pay the bankers." There was much talk in the earlier panel about who should be hurt and who should bear the burden of trade imbalances and that sort of thing.

I tell you, people that we represent have borne those problems for all of these years. I have not seen the bankers bear them. I think it is time they did. I think they ought to deal quite responsibly with your proposals.

The Mexican thing, which I see in this morning's paper, will provide enough of a loan to Mexico that they can almost meet next year's interest payments. And the Japanese, I see, are rumored to be giving them as much as $1 billion. I think that is incredible. And I think that is the kind of thing that could be addressed.

Senator BRADLEY. One last question, dealing with the same problem of the extreme worker dislocation and job loss over the last several years. Would it make sense to you to have a small fee on imports that could be used for adjustment assistance for workers who are moving from one industry to another?

Mr. DONAHUE. Yes; it would make enormous good sense, and we have supported the surcharge consistently, Senator. We had a meeting about 3 or 4 months ago in Allentown, PA, and I sat and listened to a group of people asking questions, one of whom was a steel worker from Bethlehem, put out of a job—laid off—after I guess 13 years, he said. He said I have been to the Pennsylvania Employment Service, and they tell me I am entitled to trade adjustment assistance. I am entitled to retraining, moving allowances and subsidization, and so forth.

And they told me I am entitled to all that, but they don't have any money for it. And so, I am not getting anything. He wasn't getting unemployment insurance either, as so many other unemployed are not receiving it today.

It is essential we do something about trade adjustment assistance. The surcharge is a logical way to raise some money to do it.

Senator **Bradley**. Do you think that, for your members, that would make the kind of change which is going to be an unavoidable part of an evolving economy more acceptable?

Mr. **Donahue**. Sure. Senator, the historic agreement that we have always been given, or we thought we were given, was that change is all around us. We have to accept a greater influx of imports. We can't build walls around the Nation. But we will find ways to adjust to these problems, and we will provide trade adjustment assistance and take the burden off the back of the worker. Now, we are doing that to such a slight extent that it is a breach of faith with the people who were told that. So, I think any way we can raise more money for it, we ought to do it.

Senator **Bradley**. Thank you.

The **Chairman**. Does Japan have a free trade movement, a union movement?

Mr. **Donahue**. Yes, sir.

The **Chairman**. And do they bargain for wages and working conditions?

Mr. **Donahue**. Yes, they do, Senator.

The **Chairman**. Is there any reason we should put restrictions on imports in Japan?

Mr. **Donahue**. Not on the basis of worker rights provisions. I am sorry, Senator; I don't know what the conditions of safety or the environmental issues that you raised earlier might be, but that aside, there is no reason to impose a worker rights provision. It is a nation with a strong free trade union movement which bargains annually for its conditions of employment.

The **Chairman**. I assume it bargains for safe working conditions also.

Mr. **Donahue**. I assume so, sir.

The **Chairman**. They may even bargain for environmental conditions.

Mr. **Donahue**. I would hope so.

The **Chairman**. So, there is no reason, given any of those, why we should restrict Japanese imports?

Mr. **Donahue**. Those are the givens. There is no reason on that ground to restrict the import of Japanese products, on those grounds.

The **Chairman**. Yes. What other grounds?

Mr. **Donahue**. Senator, I return to the import-sensitive industries, the market disruption question.

The **Chairman**. All right.

Mr. **Donahue**. Those are the grounds on which we———

The **Chairman**. In other words, there is a factor beyond whether they are a free country with a free union movement bargaining for wages———

Mr. **Donahue**. Obviously, we would not make that the only factor on which we judge. On the basis of that factor, we say if those factors are not met, if there is a failure of the worker rights provision or a failure to provide worker rights, then those nations should be denied most-favored-nation treatment.

The **Chairman**. But even if they have all of the free worker conditions, if they disrupt the markets, we still ought to put some kind of restrictions on the imports?

Mr. DONAHUE. Yes, sir.

The CHAIRMAN. Are there other questions?

Senator BAUCUS. Mr. Donahue, what about the buy America or buy Japan or buy Hong Kong provisions? Should they be eliminated?

Mr. DONAHUE. The buy America campaign in Japan? I think that ought to be expanded.

Senator BAUCUS. No, no, no——

[Laughter.]

Mr. DONAHUE. They don't seem to have had much success with it.

Senator BAUCUS. You know what I mean. Should those provisions that encourage consumers to buy their own country's products be eliminated?

Mr. DONAHUE. Should they be eliminated? No.

Senator BAUCUS. Limited?

Mr. DONAHUE. No.

Senator BAUCUS. Should new GATT authority address that question, or the new GATT round?

Mr. DONAHUE. The question is the openness of our markets and the openness of other markets, the abandonment of national procurement policies, and if you want to address telecommunications or the other areas, then there has to be some sort of balance in that sort of negotiation.

Senator BAUCUS. I am assuming almost everything is on the table; should that also be on the table?

Mr. DONAHUE. No; I don't think so.

Senator BAUCUS. But why not?

Mr. DONAHUE. Senator, I would approach negotiations differently than I think you would. I would not approach these negotiations on the basis of what do we have to give away. Why don't we go in and try to get the things that we were told we had in the Tokyo round and that they haven't delivered on?

Senator BAUCUS. All right, assuming that, too.

Mr. DONAHUE. Why don't we go in and argue for the destruction of barriers that others have erected to our goods? I just don't accept the theory that you have to go into a negotiation on the basis of determining what we are willing to give away to get something that we should have in the first place.

Senator BAUCUS. We are confusing tactics with goals here.

Mr. DONAHUE. I am sorry.

Senator BAUCUS. My question is, Would you be willing to negotiate away national procurement policies if we got other countries to break down their trade barriers? Or would you say that, under no circumstances, should national procurement codes be addressed in the GATT round?

Dr. OSWALD. Senator, if I may, the 1979 round did negotiate a government procurement code. That code has been a dismal failure. Theoretically, we were supposed to get the big opening of the Japanese market. One of the things that we required of the Japanese was that Nippon Telephone & Telegraph be included in that code. They have—practically nothing.

Senator BAUCUS. I am talking about——

Dr. **Oswald**. If one looks at the results of the 1979 negotiations in this area, one has to say it didn't accomplish anything.

Senator **Baucus**. I am not talking about what has happened in the past. I am talking about the future.

Dr. **Oswald**. I don't expect the future to be any better than the last 6 years in that regard.

Senator **Baucus**. I am not asking your assessment of the outcome. I am asking, as a theoretical matter, should that be on the table?

Dr. **Oswald**. As a theoretical matter, I would not argue that it should not be on the bargaining agenda. I would approach it from the standpoint of where we ought to be before we address further problems.

Senator **Baucus**. I understand. Another question: How much of our international trade problem is due to unfair trade practices of other countries and how much is due to lack of U.S. competitiveness?

Mr. **Donahue**. How much of our trade deficit with Japan?

Senator **Baucus**. Just generally, with the world.

Mr. **Donahue**. I was trying to answer your question with the specific example of Japan. I don't know how much of that trade deficit you would find attributable to unfair trade practices, but there is an enormous deficit there, and it somehow ought to be addressed. If it isn't, I just——

Senator **Baucus**. I asked the question because there are various estimates that suggest that, of the $50 billion trade deficit with Japan, only $10 to $12 billion, to be conservative, is due to unfair trade practices of Japan. The remaining $38 billion is due to lack of U.S. competitiveness. Do you agree with that generally or not?

Mr. **Donahue**. No. See, I think this whole question of U.S. competitiveness has been now so long examined and so beaten to death that we are now in the continual breast beating stage about our failure to be competitive. The American worker is as productive and more productive than most workers around the world. Our industries are highly automated and we can compete. We can compete with the Japanese. We are competing effectively with the Japanese in autos and other products. Where we have stayed in an industry, where our presence in an industry wasn't destroyed—I am not talking about televisions, video cassette recorders, or all the other generations of products that we have lost—but we can compete.

I don't think that that is fair to say, that the $38 billion is simply our inability to compete. I just don't accept that.

Senator **Baucus**. So, you disagree with those estimates?

Mr. **Donahue**. Yes, sir.

Senator **Baucus**. Thank you.

The **Chairman**. Senator Bradley.

Senator **Bradley**. No questions, Mr. Chairman.

The **Chairman**. Senator Long.

Senator **Long**. No questions, Mr. Chairman.

The **Chairman**. Senator Danforth.

Senator **Danforth**. No questions, Mr. Chairman.

The **Chairman**. Thank you, Mr. Donahue. We appreciate it.

Mr. **Donahue**. Thank you.

The CHAIRMAN. Now, we have a panel of Robert Herzstein, Kenneth Dam, Robert McNeill, Lawrence Fox, and William Pearce.

Senator BAUCUS. Before we begin, I have a statement from Senator Bentsen that he would like inserted into the record.

The CHAIRMAN. Without objection. Mr. Herzstein, go right ahead.

STATEMENT OF ROBERT HERZSTEIN, PARTNER, ARNOLD & PORTER, WASHINGTON, DC, & MEMBER OF THE BOARD OF DIRECTORS, AMERICAN ASSOCIATION OF EXPORTERS & IMPORTERS

Mr. HERZSTEIN. Thank you, Mr. Chairman. I am testifying on behalf of the American Association of Exporters & Importers. Both that association and I personally have collaborated with the U.S. chamber's effort on the new trade round. Mr. Pearce, who was the chairman of that effort, will also be testifying this morning. In general, our views coincide on most of the points we will be discussing.

I might just very quickly try to summarize the key issues that the American Association of Exporters & Importers feels are before this committee and give you our views on them.

First, the association strongly endorses a new round of trade negotiations. We feel this would advance U.S. economic interests and would complement U.S. domestic economic initiatives and international financial policies so as to improve the competitiveness of American industries in global markets. The improvement of the trading system will not by itself solve the U.S. trade deficit problem or the problems of specific U.S. industries in this country. Improving the trading system has to be combined with domestic economic policies and international financial programs which enhance U.S. competitiveness and facilitate growth in other countries.

We have, in the past, neglected these other two critical dimensions of competitiveness and tended to assume that if we negotiated open markets abroad, American industry could take care of itself. I think the one big fallacy in the thinking at the time of the Tokyo round, that you were discussing earlier this morning, is that we tended to assume that open markets were all we needed to aim for. We now realize that these other dimensions of competitiveness are crucial.

Our second key point is that we think that the legislation that you are considering should make negotiating authority and objectives of a new trade round the engine, the central part, of the legislation. It shouldn't just be the caboose added on a piece of legislation with a lot of other trade measures. We think it is important to avoid legislation which changes U.S. trade laws unilaterally in a way that is inconsistent with the GATT or that creates unilateral changes in the rules that will undermine the U.S. negotiators when they go into the multilateral forum.

Our third point is that we feel there are certain key objectives of the negotiations. We have tried to set those forth in our written testimony. In our view, the central objective should be to restore the legitimacy and the credibility of the GATT system as a set of rules which are reasonably respected, create an open marketplace, and effectively discourage Government distortions of trade flows. We think this can be done by expanding the GATT to include areas of commerce not presently included, by gaining effective control over trade-distorting subsidies, by improving the Subsidies Code, by effectively discouraging the proliferation of ad hoc or gray area restraints on trade such as the VRA's, and finally, by establishing an effective dispute resolution system that restores respect for the GATT rules.

We have specific comments on each of those in our testimony. Our final point is that we are concerned about maintaining an effective congressional role in the negotiations as they go forward, and we have also included some recommendations on that.

The CHAIRMAN. Thank you. Mr. Dam.

[The prepared written statement of Mr. Herzstein follows:]

Testimony
of
The American Association of Exporters and Importers
on
U.S. Trade Legislation and the New Round of Multilateral Trade Negotiations

Mr. Chairman, I am Robert E. Herzstein, a partner in the law firm of Arnold and Porter and a member of the Board of Directors of AAEI. AAEI represents 1,100 companies engaged in exporting, importing, and distributing goods and services between the United States and its trading partners.

I am pleased to participate in this panel with William Pearce, who served as Chairman of the U.S. Chambers' Working Group on the GATT. In that effort, I was privileged to serve as Vice-Chairman. Mr. Eugene J. Milosh, President of AAEI was an active participant in the Working Group. The views of AAEI generally correspond with those of the Working Group. Today, I am accompanied by Mr. Harold Paul Luks, AAEI's Washington Representative. AAEI looks forward to working with this Committee during the entire period of the new trade round and hopes the Committee will hold further hearings and meetings to obtain the views of exporters and importers.

A New Trade Round Will Advance U.S. Economic Interests

The new trade round complements U.S. domestic economic initiatives such as reducing the federal budget deficit and reforming the tax system. These domestic measures will make available an increased flow of savings for investment in our productive sector, thereby enhancing the competitiveness of U.S. products in world markets. However, the export-related benefits of these policies cannot be fully realized if the international trading system is undermined by protectionism and trade distorting subsidies.

A new trade round will also complement recent changes in the international economy including the downward valuation of the U.S. dollar. Trade, currency alignments, and the debt problem are inter-related and neither is amenable to unilaterally imposed solutions. Negotiations leading to the reduction of trade barriers will reinforce the ability of U.S. exporters to benefit from the recent depreciation of the dollar against the major reserve currencies. The multilateral reduction of trade barriers will also facilitate economic growth in developing countries, and this will contribute to increased levels of exporting and importing. Such developments are directly related to resolving the debt problem and to restoring the traditional level of U.S. exports to the major debtor countries in Latin America.

Services and Agriculture

A new trade round can facilitate U.S. exports by (1) expanding the GATT framework to include services and (2) extending the basic principles of the GATT to trade in agriculture. In each sector, U.S. exporters often find their comparative advantage diminished by the absence of multilaterally agreed upon principles regarding trade barriers and subsidies.

Subsidies

U.S. exporters and domestic industries will also benefit from negotiations which produce agreed upon principles by which governments are better able to distinguish permissible from impermissible domestic subsidies. In this regard, the U.S. "specificity test" could provide some guidance for the international community. This test distinguishes between government benefits "generally available" to the private sector and those which are available only to specific companies or industrial sectors.

Strengthening the Subsidies Code can minimize trade practices which distort U.S. commerce. Furthermore, an improved definition of countervailable subsidies would enable the United States to counter trade distorting practices without risking retaliation against U.S. exports.

Intellectual Property

Mr. Chairman, enhancing our position as an exporter also requires strengthening international rules regarding the protection of intellectual property rights. A new trade round could result in a Code on Counterfeiting to provide a new measure of protection of trademarks. Negotiations could also result in a multilateral agreement containing provisions which strengthen national trade laws relating to infringements of patents and copyrights.

Safeguards

AAEI is deeply concerned about the proliferation of both formal and informal escape clause actions which restrict trade.

AAEI believes that trade restrictions imposed to protect a domestic industry must be brought within the GATT system by a Safeguards Code based upon a multilaterally agreed upon system of principles and procedures.

At a minimum, a Safeguards Code should provide a framework for escape clause actions based upon the follwoing standards:

- Import restrictions should be temporary;
- Limitations on trade should be implemented through tariff increases, as opposed to quantitative restraint agreements;
- Assessing injury should be based upon clear criteria;
- Resources should be devoted to increasing surveillance of trade restrictions, and publication of such actions could act as a restraint on trade restrictions as they come to the attention of the trading community; and
- Provision could be made for an exception to the compensation requirement when countries have complied strictly with the Code, e.g., import relief for a limited period and then only through tariff increases.

However, in order for safeguard negotiations to proceed, Congress must refrain from imposing any automatic formula on the President which would require the imposition of import relief. If such a proposal were to become law, U.S. negotiators would have little credibility to craft an effective Safeguards Code.

Dispute Settlement

Longstanding and festering international trade disputes can result in retaliation and counter retaliation. To help avoid this destructive cycle, dispute settlement panels should be strengthened by developing a transparent procedural framework designed to add greater legitimacy to the process.

Strengthening the dispute settlement process could include:

- Expanded reliance on a standing list of non-governmental experts distinguished for their knowledge of the GATT;
- Establishment of reasonable deadlines for decisionmaking;
- An objective fact-finding process leading to the general release of detailed panel decisions;
- Establishing procedures for a voluntary system of arbitration; and
- Providing for a more direct role by the GATT Director-General in trade disputes.

The Extension of Negotiating Authority Must Be Broad and Without Preconditions

Because the agenda for the new round is so extensive, and the issues so complex, AAEI recommends that Congress establish goals for the negotiations, rather than impose preconditions. Therefore, AAEI recommends that Congress reauathorize a broad grant of authority to enable the President to participate in multilateral trade negotiations. The authority should be for a period of ten years.

AAEI is concerned that provisions within S. 1860 (The Trade Enhancement Act) and S. 1837 (The Trade Policy Act of 1985) could unnecessarily restrict the President's ability to participate in multilateral trade negotiations. AAEI believes that the existing provisions in the Trade Act which provide for the close involvement of Congress in trade negotiations warrant a broad grant of negotiating authority.

At the same time, Congress must insist upon close and continuing involvement in the trade negotiations. As this Committee wrote in its Report on the Trade Act, each Administration "must not only keep a select few members informed; they must work to gain the confidence and respect of all members, as well as keeping members fully informed."

The Trade Act contains explicit procedures providing for Congressional involvement in trade negotiations. Section 161 of the Trade Act provides that five members of this Committee, and five members of the Committee on Ways & Means, are to be accredited as "official advisors" to the U.S. delegation. Moreover, they are to have "full access" to information pertinent to the negotiations. Provision also is made for the USTR to keep the Congressional advisors informed of any possible changes to U.S. law or regulation necessary to implement a new trade agreement. Procedures are also provided ensuring that other members of the principal trade committees will have access to information about the negotiations and for certain staff members to have similar priviliges.

The Negotiations Depend Upon Close Consultation Between Congress and the Executive Branch

In its Report on the Trade Agreements Act of 1979, the Ways & Means Committee described the Congressional-Executive Branch consultation provisions of the Trade Act of 1974 as:

> "...instrumental in establishing the Congress, along with the private sector, as a permanent partner with the Executive Branch in the operations of the U.S. trade agreements program."

The specific terms and direction of United States participation in the new MTN cannot be legislated prior to the negotiations. Because the Trade Act provides for the close involvement of Congress, an Administration which does not fully implement these provisions, greatly reduces its ability to obtain Congressional approval of trade agreements. Between 1974 and 1979, through Republican and Democratic administrations, the synergistic model provided for in the Trade Act enabled the United States to develop a complex series of multilateral trade agreements. During this Congress, or in the next, this proven model should be reactivated.

Tariff Reductions

Mr. Chairman, AAEI recommends that Congress approve authority for the President to proclaim tariff reductions. This authority should be patterned after that of the Tokyo Round, which permitted the President to proclaim reductions within a mathematical framework. This Committee's vehicle for trade legislation, presumably S. 1860, does not provide for this authority.

AAEI is opposed to the provision in H.R. 4800 which, although it provides tariff proclamation authority, prohibits the President from proclaiming reductions for products now excluded from the Generalized System of Preferences. This proposal would surely provide the basis for other countries to withdraw items from a tariff negotiation before the beginning of the actual deliberations.

Notification & Committee Disapproval

AAEI has reservations about the provision in S. 1860 which would require the President to notify this Committee, and the House Ways & Means Committee, of his intention to enter into a trade agreement 150 days before taking such action. The bill further provides that during the first 60 days of this notification period, either Committee may disapprove the agreement--thus denying the implementing legislation "fast track" consideration. This is a major revision of the existing "fast track" procedures. S. 1837 contains other provisions which enable either Committee to disapprove the negotiations before they formally commence.

The possibility of one Congressional committee vetoing the entire negotiation might be a significant disincentive for other countries to participate in the new trade round. "Our trading partners have expressed an unwillingness to negotiate without some assurances that the Congress will consider the agreements within a definite time-frame." This observation by the Committee in its Report on the Trade Act of 1974 was valid then and it is valid today.

The "fast track" implementation procedures were designed to ensure that the two principal trade committees in Congress would have an important role in shaping U.S. negotiating positions and exercise considerable influence over the fate of a trade bill, while reserving the final judgement for each House.

Expiration Dates

To avoid disruption of the negotiations, AAEI recommends a ten-year extension beginning January 3, 1988. S. 1860 provides negotiating authority for five years. S. 1837 extends the authority through 1995.

During the trade round, the President could submit to Congress one comprehensive agreement, or various Codes as they are negotiated. Reauthorizing multilateral trade negotiations in mid-course, or even close to their conclusion, is perilous at best. A reauthorization bill would be subject to all the vicissitudes of the legislative process and could be held hostage to issues either which either are not germane to international trade or are hostage to a minor issue in the negotiations.

Protectionist Trade Legislation Can Jeopardize the Trade Round

In developing a comprehensive trade bill, AAEI urges the Committee to view the extension of negotiating authority as not merely one section of a bill with many titles, but rather as the foundation of the legislation. A commitment to participate in the new round requires that Congress reject proposals which (1) either contravene our international trade obligations or (2) address unilaterally problems which are more amenable to multilateral solutions.

Of particular concern to AAEI are provisions before the Senate which:

- Mandate retaliation in section 301 cases;
- Expand the scope of section 301 actions to include "targeting" and other practices identified in S. 1860 and S. 2033 (The Trade Expansion Act of 1986) considered to distort trade;
- Expand section 301 retaliation options to include denial of GSP;
- Provide for sectoral reciprocity based upon the concept of "substantially equivalent" market opportunities;

- Require the President to impose trade restrictions in section 201 cases;
- Allow for the imposition of "provisional relief" for perishable agricultural products in section 201 cases in the absence of a finding of injury or threat thereof;
- Unilaterally expand the definition of countervailable subsidies to include natural resource pricing policies;
- Unilaterally expand dumping remedies beyond GATT-sanctioned remedies to include, among other things, exclusion orders and treble damages (S. 1655 The Unfair Foreign Competition Act); and
- Link the imposition of U.S. trade restrictions with bilateral trade balances.

AAEI is convinced that a grant of negotiating authority encumbered by such measures would greatly diminish the incentives for developed and developing countries to participate in the trade round. In fact, such measures are likely to spark mirror-image legislation abroad and retaliation against U.S. exports.

In conclusion, confronting non-tariff barriers to trade through multilateral negotiations will be arduous and protracted. Such barriers, including the application of customs procedures and rules of origin to restrict trade, require extraordinary attention to minute details. There is, however, no alternative to the multilateral approach in an interdependent world economy.

STATEMENT OF KENNETH W. DAM, VICE PRESIDENT, LAW AND EXTERNAL RELATIONS, IBM CORP., ARMONK, NY, ON BEHALF OF THE INTELLECTUAL PROPERTY COMMITTEE

Mr. Dam. Thank you, Mr. Chairman. I am Kenneth W. Dam, vice president, law and external relations of the IBM Corp. I am here today representing the Intellectual Property Committee [IPC], which is a coalition of U.S corporations. The members of the IPC are Bristol-Myers, CBS, Du Pont, General Electric, General Motors, Hewlett-Packard, IBM, Johnson & Johnson, Merck, Monsanto, and Pfizer.

Intellectual property rights have become increasingly important in international trade flows in recent years. The inadequate protection of these rights worldwide has, however, become a major cause of international trade distortions. Losses to worldwide industry as a result of counterfeiting and piracy abroad have been extensive and are growing.

One of the IPC's principal purposes is to develop international support for improving the international protection of intellectual property; that is, patents, copyrights, trademarks, and trade secrets.

While the present international intellectual property regimes—primarily the Berne Convention, the Universal Copyright Convention, and the Paris Convention—have been helpful in promoting the current level of intellectual property protection, they have not been able to curtail the extensive losses to worldwide industry due to counterfeiting and piracy.

Recognition of intellectual property as a trade issue, and its inclusion on the agenda for the next round of multilateral trade negotiations would permit the development of the dispute settlement procedures that enforcement mechanisms missing from the current international intellectual property regime. The GATT could also provide an international forum for the improvement of the existing inadequate minimum intellectual property standards and for the explicit recognition of intellectual property rights protection for new technologies. Equally important, inclusion of intellectual property in the GATT will establish a framework for dealing with one of the newest and most disruptive trade problems confronting the international trading system.

Section 404 of S. 1860, which sets forth negotiating objectives, includes a reference to intellectual property rights. However, a more specific set of legislative objectives would signal to the executive branch and to our trading partners the importance that the Congress attaches to inclusion of intellectual property in the next round of multilateral trade negotiations.

Specifically, U.S. negotiators should be instructed to pursue two distinct but parallel objectives: Early conclusion of the anticounterfeiting code on trademarks, which has been on the GATT table since the closing days of the Tokyo round, and the concurrent negotiation of intellectual property arrangements within the GATT that would develop substantive norms and standards for the protection of the other forms of intellectual property—patents and copyrights—and deal with the misappropriation of trade secrets. U.S. negotiators should seek agreement on improved international intellectual property standards, where needed, and their meaningful enforcement. In addition, such arrangements should include rules of behavior and dispute settlement provisions.

Mr. Chairman, in our prepared statement, we have provided some suggested language that reflects the specific set of objectives that we seek. Thank you very much.

The CHAIRMAN. Thank you. Mr. McNeill.

[The prepared written statement of Mr. Dam follows:]

Testimony

of

Kenneth W. Dam
Vice President, Law and External Relations
IBM Corporation
Armonk, New York

Representing the Intellectual Property Committee

I am Kenneth W. Dam, Vice President, Law and External Relations of the IBM Corporation. I am here today representing the Intellectual Property Committee (IPC), which is a coalition of U.S. corporations. The members of the IPC are Bristol-Myers, CBS, DuPont, General Electric, General Motors, Hewlett-Packard, IBM, Johnson & Johnson, Merck, Monsanto and Pfizer.

The IPC welcomes the opportunity afforded by today's hearing to provide its views on U.S. negotiating objectives for the proposed new round of multilateral trade negotiations. The IPC is prepared to address one aspect of the issue: the need for improved international protection of intellectual property.

One of the IPC's principal purposes is to develop international support for improving the international protection of intellectual property, i.e., patents, copyrights, trademarks and trade secrets. The IPC is a general business group of multinational corporations dedicated to promotion of the intellectual property issue. Because of its diverse membership, the IPC has access to technical and policy expertise on both intellectual property and trade issues.

The IPC is based upon two fundamental commercial considerations. First, intellectual property is important to international competitiveness. And second, inadequate international protection of intellectual property has become a major cause of distortions in the international trading system . Under these circumstances, the IPC believes that it is both appropriate and necessary for intellectual property issues to be dealt with under international trade rules as a supplement to existing international intellectual property conventions and agreements.

Background

In the last two years, the United States and many of its major trading partners have come to recognize that intellectual property protection is among the most important emerging international trade policy issues.

In the United States:

° The 1984 Trade and Tariff Act (a) included the protection of intellectual property rights as one of the factors to be taken into account in the determination of duty free import eligibility for developing countries under the U.S. Generalized System of Preferences (GSP) and (b) added inadequate protection of intellectual property to the list of unfair trading practices under Section 301, which permits the United States to retaliate against unfair and unjustifiable trade practices.

° In December, 1984, The President's Commission on Industrial Competitiveness issued a special report on the importance of adequately protecting intellectual property.

° The President of the United States, in a major trade policy speech on September 23, 1985, emphasized the importance of intellectual property protection.

° The first Annual Report on National Trade Estimates, prepared by the United States Trade Representative (USTR) in the fall of 1985, identifies a significant number of trade-related intellectual property problems around the world, and emphasizes the importance of intellectual property protection by devoting its only appendix to an in-depth discussion of the issue.

° On November 3,1985, the USTR launched a Section 301 investigation against South Korea over its inadequate protection of intellectual property. The Section 301 case against Brazil over its information policies included Brazil's unwillingness to protect software under copyright.

° Bilateral negotiations on intellectual property issues have been initiated with a number of countries, including Taiwan, Mexico, Singapore and Canada.

° The United States Advisory Committee for Trade Negotiations -- a Presidentially appointed private sector group with representation from leaders of U.S. business, labor and agriculture -- developed a trade-based strategy to improve intellectual property protection. This strategy has had a major role in shaping U.S. policy.

° On April 7, 1986, the U.S. Government released its Statement on Protection of U.S. Intellectual Property Rights, which details the U.S. agenda and objectives for the improved protection of intellectual property both in the United States and abroad.

° The trade bill recently passed by the House of Representatives includes a separate chapter on intellectual property rights. The chapter includes improvements in intellectual property protection and procedures for improving market access for intellectual property dependent industries, and sets forth specific bilateral and multilateral negotiating objectives for intellectual property.

° Numerous U.S. business organizations are actively developing an intellectual property strategy for the new round of GATT trade negotiations.

There has also been significant international activity:

° The communiques of both the OECD Ministerial Meeting in April, 1986 and the Tokyo Economic Summit in May, 1986 declared that "[t]he new round should, inter alia, address the issues of ... trade-related aspects of intellectual property rights ...."

° In preparation for the upcoming round of GATT trade negotiations, the Government of Japan has established a business advisory group on intellectual property.

° Government representatives from the European Community and its members, the United States, Canada, Switzerland, Japan, Australia and Sweden met in Canada in May, 1986 to discuss the inclusion of intellectual property issues in the new round of GATT trade negotiations.

° Early negotiation of an anti-counterfeiting code, a draft of which has been pending before the GATT since 1979, continues to be a primary trade objective for industrialized countries.

° The Joint Working Party on Intellectual Property Issues and the GATT of the International Chamber of Commerce (ICC) recommended on July 8, 1986 the inclusion of intellectual property in the new round of multilateral trade negotiations.

IPC Objectives

The IPC is focusing its efforts in the following areas:

° The inclusion and successful negotiation of a satisfactory arrangement for intellectual property (patents, copyrights, trade secrets and trademarks) in the new round of GATT trade negotiations.

° The development of a coherent international strategy, including bilateral negotiations, in support of intellectual property protection.

° Cooperation between the U.S. private sector and the international business community in support of improved international intellectual property protection.

° Changes in various U.S. trade laws to improve the protection of intellectual property. (See Appendix-A for a detailed discussion of these proposed changes.)

Why Intellectual Property Protection is also a Trade Issue

Intellectual property rights (patents, copyrights, trademarks and trade secrets) have become increasingly important in international trade flows in recent years. These rights, which protect innovation and intellectual creativity, are the cornerstone of international competition. Protection of these rights is essential to the continued development and expansion of international trade, investment and transfers of technology. Such protection can help improve and expand the industrial base of developing as well as developed countries.

Because of the increasing costs of innovation, product development and marketing, recovering these costs is essential for developing the next generation of products, processes, and services. Industries are finding it increasingly difficult to achieve a return commensurate with the risks when foreign counterfeiters and pirates, who do not face similar development costs and can avoid the payment of royalties, effectively preempt legitimately-produced goods and works from the international marketplace.

Developing countries also suffer from extensive counterfeiting and piracy. The financial losses suffered by foreign patent and copyright holders from such activities make it difficult for them to generate the investment capital necessary for the economic development of the developing countries. Furthermore, high levels of counterfeiting (trademark copying) and piracy (patent and copyright infringement) prevent the commercialization of local products and the development of local industries, thus leaving untapped the industrial, intellectual and artistic creativity found in the developing countries.

The inadequate protection of intellectual rights worldwide has become a major cause of international trade distortions. Losses to worldwide industry as a result of counterfeiting and piracy abroad have been extensive and are growing.

Documented losses are compelling evidence of the magnitude of the problem facing U.S. industries. The U.S. International Trade Commission has estimated that, for example, $6 to $8 billion of total domestic and export sales by U.S. companies and 131,000 U.S. jobs were lost in 1982 as a result of foreign product counterfeiting. The latest estimate for 1984 losses is as high as $20 billion. The U.S. copyright industries put annual lost sales at over $1.3 billion as a result of the failure of ten key countries

(Singapore, Taiwan, Indonesia, Korea, Philippines, Malaysia, Thailand, Brazil, Egypt and Nigeria) to provide adequate and effective protection to U.S. copyrighted works and the U.S. agrichemical industry estimates that it loses $200 million per year from inadequate and ineffective patent protection worldwide.

While it may take up to ten years and $100 million to bring a pharmaceutical product to market, a chemist with a M.A. degree can duplicate the product and, if not legally constrained, could enter into the production of the drug in sufficient quantities to preempt effectively the legitimate drug from the market. A new family of semiconductor integrated circuits also costs $100 million or more to design, yet the same chips can be copied for less than $1 million. A copy of a popular $500 U.S. software package can be bought for $7.50 in Singapore.

Such loss of export and domestic markets by intellectual property-based industries makes the international protection of intellectual property both a trade issue and a technical intellectual property issue.

How a Trade-Based Approach Can Improve the International Protection of Intellectual Property

A trade-based approach could lead to an overall improvement in the international protection of intellectual property. On a bilateral basis, the United States and other industrialized countries can link continued access to their markets to improved intellectual property protection. This will maintain pressure on countries to raise their intellectual property protection. In addition, any new levels of protection might be sufficient to permit countries to meet new multilateral standards negotiated as supplements to present international intellectual property agreements and conventions.

While the present international intellectual property regimes -- primarily the Berne Convention and the Universal Copyright Convention for copyright and the Paris Convention for patents -- have been helpful in producing the level of intellectual property protection available today, they have not been able to stop the extensive losses to worldwide industry due to counterfeiting and piracy. Some of these conventions only require adherents to provide certain minimum standards for foreign rights holders, while others do not even contain adequate minimum rights. Beyond minimum standards, adherents are bound only to provide national treatment. In many cases, this translates into no protection for either local or foreign rights holders. Furthermore, these conventions were never intended to be used as enforcement mechanisms for bilateral disputes and thus have no dispute settlement provisions.

The folding of international intellectual property into the GATT framework as a supplement to existing international intellectual property agreements and conventions will facilitate the increased protection of intellectual property. Existing international trade rules and codes are based on a framework which includes not only standards, but also mandatory consultation, dispute resolution and enforcement mechanisms. In addition, the international trade framework authorizes selective retaliation against countries which violate the established standards. This type of framework will put teeth into the current international intellectual property framework.

Intellectual Property and the GATT

Intellectual property is not necessarily a new issue to the GATT. Indeed, there are a number of provisions in the GATT which relate to patents, trademarks or copyrights. (See Appendix-B.) More important, intellectual property protection directly affects the international movement of goods. As noted earlier, its inadequate international protection significantly distorts trade flows. This type of problem is clearly within the scope of the GATT.

Recognition of intellectual property as a trade issue and its inclusion on the agenda for the next round of multilateral trade negotiations would permit the development of the dispute settlement procedures and enforcement mechanisms missing from the currently international intellectual property regime. The GATT could also provide an international forum for the improvement of the existing inadequate minimum standards for patents and for the explicit recognition of intellectual property rights protection for such new technologies as software and literary works delivered via satellite (under copyright) and man-made micro-organisms (under patent). Equally important, inclusion of intellectual property in the GATT will establish a framework for dealing with one of the newest and most disruptive trade problems confronting the international trading system.

Multilateral intellectual property arrangements negotiated under the auspices of the GATT would seek to deal with the trade-related aspects of intellectual property rights. Inadequate national laws and international standards and ineffective enforcement of existing national laws permit the counterfeiting of trademarked goods and the pirating of patents and copyrights. To deal with these distinct problems, the following two types of arrangements could be negotiated within the GATT as part of the new round of multilateral trade negotiations:

(1) an anti-counterfeiting code for trademarks, a draft of which has been before the GATT since the end of the Tokyo Round; and

(2) intellectual property provisions that would focus on patent and copyright infringement. Such provisions could seek to develop and enforce substantive norms and standards for intellectual property protection and could include agreed rules of behavior (e.g., transparency and notice provisions), dispute settlement procedures and authority to impose trade restriction on countries that tolerate violation of intellectual property rights.

Where appropriate, the technical cooperation of the World Intellectual Property Organization (WIPO) as well as the advice of intellectual property experts in the international business community could be sought by the GATT in the development of the intellectual property standards.

The proposed round of multilateral trade negotiations has as a major objective the streamlining and strengthening of the GATT's dispute resolution procedures. If an anti-counterfeiting code and other intellectual property arrangements can be negotiated within the context of these negotiations, the protection of intellectual property will be a major beneficiary of a stronger GATT.

MTN Negotiating Authority and Objectives for Intellectual Property

The legislative grant authorizing U.S. participation in a new MTN round should explicitly include the improved protection of intellectual property abroad as a principal U.S. objective.

Section 404 of S. 1860, which sets forth negotiating objectives, includes a reference to intellectual property rights. This provision is adequate. However, a more specific set of objectives would signal to the Executive Branch and to our trading partners the importance that the Congress attaches to inclusion of intellectual property in the next round of multilateral trade negotiations. This emphasis is necessary to assure that the GATT treats intellectual property as a high priority to be negotiated in this trade round and not side-tracked for consideration in some future round.

The negotiating authority should acknowledge the trade-based approach as a supplementary means for dealing with the issue. In granting the authority to enter into multilateral negotiations, the Congress and private sector should insist that the Executive Branch -- in consultation with the Congress -- first develop an overall intellectual property strategy that will include continued and strengthened bilateral and unilateral as well as multilateral efforts. The Executive Branch should also be urged to use all appropriate multilateral institutions -- trade organizations such as the GATT and the OECD as well as WIPO -- to improve the international standards for intellectual property protection. The grant of authority should explicitly enumerate the scope of the intellectual property negotiations, which should cover both a) counterfeiting of trademarks and b) copyright and patent infringement. While both result in severe trade distortions, they do so in different ways and will therefore require different responses in the forthcoming round of multilateral trade negotiations. Accordingly, U.S. negotiators should be instructed to pursue two distinct but parallel objectives:

-- early conclusion of the Anti-Counterfeiting Code on trademarks, which has been on the GATT table since the closing days of the Tokyo Round; and

-- the concurrent negotiation of intellectual property arrangements within the GATT that would develop substantive norms and standards for the protection of the other forms of intellectual property -- patents and copyrights' and deal with the misappropriation of trade secrets. In negotiating such arrangements, U.S. negotiators should seek agreement on improved international intellectual property standards, where needed, and to their meaningful enforcement. In addition, such arrangements should include rules of behavior and dispute settlement provisions.

The dual intellectual property objectives should be reflected in the negotiating authority to avoid any possibility that the two approaches might be traded off for each other or for any concessions in other sectors.

The Congress should also consider granting the President authority to enter into bilateral negotiations with developing countries to encourage them to strengthen their intellectual property protection to a level consistent with the agreements being negotiated in the GATT. Under such authority, U.S. negotiators would be able to bring to bear a wide range of instruments, including the leverage of 301, GSP, CBI and other trade-linked authorities, the mutual exchange of concessions and technical training as well as continued discussions or actions within WIPO and other appropriate multilateral fora.

The following intellectual property objectives should be included among the overall and principal U.S. trade negotiating objectives for the new round of trade negotiations that would be enumerated in the legislation:

1. Overall Intellectual Property Objectives

   a. To recognize that intellectual property rights, which protect innovation and intellectual creativity, have become the cornerstone of the international competitiveness of U.S. industry;

   b. To call attention to the trade distorting effects and loss of export opportunities and markets to U.S. industry that result from the inadequate protection of intellectual property abroad;

   c. To recognize that the adequate protection of intellectual property is a major element of US foreign economic policy and has sweeping political as well as economic and commercial importance;

   d. To provide for the development of an overall U.S. strategy to improve the protection of U.S. intellectual property abroad that will include continued and strengthened bilateral and unilateral as well as multilateral efforts; and

   e. To underline the importance of using all appropriate multilateral fora -- WIPO, GATT, and OECD -- to improve the substantive norms and standards for intellectual property protection.

2. Principal Objectives for Intellectual Property

   a. To improve the protection of intellectual property provided through copyrights, patents, trademarks and trade secrets by the trading partners of the United States;

   b. To develop internationally agreed rules, including dispute settlement procedures, which

      (i) are consistent with the commercial and intellectual property policies of the United States;

      (ii) will supplement, if necessary, the rules and approaches already found in the appropriate international intellectual property conventions; and

      (iii) which will improve the protection afforded to U.S. intellectual property abroad; and

   c. To press for early conclusion of the Anti-Counterfeiting Code on trademarks and for concurrent development and enforcement of substantive norms and standards for the protection of other forms of intellectual property.

International Consensus Building

The IPC recognizes that government actions alone cannot guarantee improved international protection for intellectual property. Successful bilateral and multilateral negotiations will also depend to a significant extent on international private sector cooperation. The IPC has already launched a major effort to build an international private sector consensus in support of a trade-based approach to improved international protection for intellectual property.

In June, a delegation of IPC members met in Europe with representatives from their own European subsidiaries, and officials from the GATT, the OECD, the European Communities, the British and French Governments and the World Intellectual Property

Organization. They also met with representatives of several national employer federations and their member companies (the French Patronat, the Confederation of British Industries, the Federation of German Industries, and the Union of Industries of the European Community [UNICE]).

The purpose of these meetings was to familiarize Europeans with the trade-based approach to intellectual property and to gain their support for inclusion of intellectual property in the new round of multilateral trade negotiations. The IPC believes that as a result of the face-to-face discussions, Europeans gained a clearer understanding of the issue. As a result, support in Europe for inclusion of intellectual property in the upcoming GATT talks is growing. For example, in March, the International Chamber of Commerce (ICC) would not endorse this position. In July, however, an ICC working party recommended support. In addition, representatives of European business organizations are stressing the need trade and intellectual property specialists of interested countries to begin to develop the details of a trade-based approach to intellectual property.

Conclusion

The IPC hopes that the Committee will report out trade legislation which provides the President with (a) negotiating authority for intellectual property and (b) detailed negotiating objectives. This will send a strong signal to our trading partners that improved international protection of intellectual property should be a high priority issue in the forthcoming GATT round of multilateral trade negotiations.

APPENDIX A - ADDITIONAL IPC LEGISLATIVE OBJECTIVES

1. Section 337 of the Tariff Act of 1930

Section 337 of the Tariff Act of 1930 empowers the International Trade Commission to exclude from entry into the United States articles involving unfair trade practices, including infringement of certain intellectual property rights. However, several amendments to Section 337 are necessary to make it more effective in protecting intellectual property rights.

First, importation of articles that infringe patents, copyrights, trademarks or trade secrets should be conclusively presumed to "injure" the U.S. industry whose rights are infringed. There should be no additional requirement that the intellectual property rights owner show specific lost sales or employment resulting from the infringement.

Second, the importation of products produced abroad by a process that is patented in the United States should be designated an unfair practice under Section 337. A producer manufacturing abroad using a process patented in the United States should not be free to compete with authorized production in the United States. The major western industrialized nations afford protection in such circumstances to processes patented in those nations and the United States should also.

Third, the requirement that a U.S. industry be "efficiently and economically operated" should be deleted. That requirement unnecessarily complicates litigation while having no probative value on the basic fact of injury to a U.S. industry.

Fourth, the International Trade Commission should be empowered to compel seizure and forfeiture to the United States of articles already imported in violation of Section 337. With delays inherent in litigation, a U.S. industry can be substantially injured by infringing goods that are imported prior to the grant of exclusion relief.

Fifth, procedures for obtaining a default judgment before the International Trade Commission should be added. Not infrequently, the most flagrant infringers fail simply to appear. The plaintiff in such a case today has no access to discovery against the absent defendant, but nevertheless is required to prove its entire case. This unnecessary burden should be removed through institution of default judgment procedures similar to those prevalent in other tribunals.

Finally, the International Trade Commission's authority to grant an interim exclusion order should be amended to provide for expedited consideration. If an interim exclusion order is granted in a timely manner, it could prevent a U.S. company from being injured because of a surge in imports prior to a final decision under Section 337.

2. Generalized System of Preferences

The 1984 Trade and Tariff Act turned the present review of the Generalized System Preferences (GSP) program into a potentially-effective instrument for improving intellectual property protection in beneficiary countries. The Act directs the President to take into consideration the extent to which the beneficiary country provides adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark and copyright rights. A country's treatment of intellectual property will be one of the principal factors considered in determining continued eligibility.

Although GSP, together with the expanded use of Section 301 investigations, is cited as the preeminent example of the strategy of linking continued access to the U.S. market to improved intellectual property protection abroad, its effectiveness in this regard may be limited. The present window of opportunity afforded by the review closes when the determinations on country and product eligibility are made. In addition, even during review there will be limitations on the use of GSP as a lever. For example, political, security and macroeconomic counterpressures may militate against the withdrawal or limitation of GSP privileges solely on the basis of intellectual property rights violations.

The GSP legislation should be amended to provide the Administration with a greater ability to fine-tune the linkage between GSP benefits and improved intellectual property protection:

--Require the President to place in an "intellectual property surveillance group" those GSP-eligible countries identified in the Annual Report on National Trade Estimates as having inadequate intellectual property protection. Countries that remain under surveillance for more than twenty-four months would lose all GSP benefits. Standards for the improvement of intellectual property protection and enforcement would be negotiated with individual countries on the surveillance list. Significant improvement in intellectual property treatment could lead to removal of a country from the surveillance group and restoration of GSP benefits.

If a country on the list does not undertake sufficient action to improve its protection of intellectual property within 24 months after being placed on the list, it would lose its GSP eligibility. If intellectual property protection worsened in a country within the general beneficiary group, that country could be dropped into the surveillance group, which would then lead to the development of an improvement program with appropriate standards and milestones.

--Deny GSP benefits to products that are determined by a state or federal court or federal agency to infringe copyrights, patents, trademarks or trade secrets. A special procedure should be adopted to ensure that products or goods eligible for GSP benefits do not incorporate infringed patents or copyrights or counterfeited trademarks. An LDC producer of an infringing product would, in the absence of a license agreement with the

U.S. rights holders, be denied GSP benefits for the infringing products. A determination by the appropriate state or federal court or federal agency would be the basis for the denial of GSP benefits.

3. Technical Assistance

Many developing countries do not have a system of laws or are administrative structure for the adequate protection of intellectual property. An official U.S. Government technical assistance program should be established to help develop and implement adequate intellectual property laws and train intellectual property rights officials of these countries.

Such a training program would serve as an important complement to the current trade-based effort to link politically the provision of trade benefits in the U.S. market, under GSP or through the use of Section 301 investigations, to proper intellectual property protection abroad. Technical educational efforts can help either to implement the political decisions to improve intellectual property protection or can help provide reinforcement if the political will is not currently strong enough to improve the protection or enforcement of intellectual property rights.

The expertise for such a program is already available within both the U.S. Government and private sector. Both the U.S. Patent and Trademark Office and the U.S. Copyright Office have available training facilities which could be activated to provide such training. Many U.S. companies have already provided such training at their expense and their experts could assist in such a program. Significant additional resources are, however, required for the programs that are already in place and to develop new and creative educational and technical programs. In addition, a central administrative unit must be established to organize and coordinate the government-wide effort.

An important source of funding for technical training in certain developing countries could be the economic assistance programs administered by the U.S. Agency for International Development (AID). The use of AID funds is consistent with the objectives of the U.S. economic assistance program. AID is already involved in extensive training programs for both LDC governmental officials and private sector participants in the technology transfer area. Not only could AID provide funding for training programs administered by the Patent and Trademark and Copyright Offices for LDC officials in the United States, but long-term programs in which U.S. officials are seconded to intellectual property bodies in the LDCs could also be developed. Intellectual property lawyers could assist LDC governments and the local bars in the development of their law enforcement mechanisms, while other intellectual property specialists could assist in developing effective administrative systems for patents and copyrights. To implement such a technical assistance program:

(1) Necessary funds, specifically earmarked for technical assistance, should be authorized and appropriated to the U.S. Patent and Trademark Office and the U.S. Copyright Office;

(2) AID should be instructed to provide intellectual property training as part of its economic assistance programs. Although not required, the Foreign Assistance Act could be amended to include intellectual property training as one of the objectives of the Agency's private enterprise thrust; and

(3) A small office should be established within the Economic and Business Affairs Bureau of the State Department to coordinate all U.S. government training in the intellectual property area. The office would also be the U.S. government liaison with private sector technical training efforts and those of such international organizations as WIPO.

4. Manufacturing Clause and U.S. Adherence to the Berne Convention.

The Manufacturing Clause should not be extended. It has been found to violate U.S. obligations under the GATT. Extension of the Manufacturing Clause could adversely affect the ability of the United States to negotiate improved international protection for intellectual property.

The United States should also act expeditiously to adhere to the Berne Convention. In general, the United States already provides the minimum standards set forth in the Berne Convention. The adherence by the United States to the Berne Convention would be a strong signal that the United States is committed to strengthening the international intellectual property regime.

APPENDIX B - RELEVANT GATT PROVISIONS

The General Agreement on Tarriffs and Trade (GATT) includes several clauses that relate to patents, trademarks, or copyrights.

° Article XX(d) permits GATT members to take measures "necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to . . . the protection of patents, trademarks and copyrights, and the prevention of deceptive practices . . . ."

° Article IX, paragraph 6, provides that GATT members "shall co-operate with each other with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product . . . ."

° Article XII, paragraph 3(c)(iii), requires GATT members applying trade restrictions to safeguard their balance of payments "not to apply restrictions which would . . . prevent compliance with patent, trademark, copyright, or similar procedures."

° Article XVIII (Section B), paragraph 10, provides that a developing country, which is a member of GATT, cannot apply trade restrictions in support of its economic development in a manner that would "prevent compliance with patent, trademark, copyright or similar procedures."

° Article III, paragraph 1, states the general principle that imported goods will be accorded the same ("national treatment" in GATT terms) treatment as goods of local origin with respect to matters under government control. Article III, paragraph 4, specifically requires GATT members to treat imported products "no less favorably" than like products of "national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use."

STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN, EMERGENCY COMMITTEE FOR AMERICAN TRADE, WASHINGTON, DC

Mr. McNeill. Mr. Chairman, thank you for having me here this morning. We at ECAT support very strongly the administration's initiatives for a new round of trade negotiations in the GATT. We think that without the exercise of the leadership of the administration, that the GATT would become more and more of a moribund organization. I would think that that would be a tragedy for the international trading system that depends so much on an effective GATT.

In your grant of negotiating authority to the administration, we hope that the Senate would not follow the pattern of the House, and go along with the recommendation of Messrs. Nehmer and Moore this morning, that the negotiating authority be restricted so as not to pertain to items that are deemed to be ineligible for the GSP system. To do so would remove initially at the very outset of the trade negotiations somewhere between 25 and perhaps 35 percent of the U.S. offer. Rather than legislate that sort of a restriction on the negotiating authority, we think it would be more sensible to rely on the normal administrative process, followed by all administrations, whereby examinations are made as to items that are import-sensitive and judgments arrived at as to whether to offer tariff concessions on those items.

In the Kennedy and Tokyo rounds, such exercises were followed, and import-sensitive products generally were reserved from negotiation, but on the basis of examination of factual criteria.

In ECAT, we very much support the objectives for the new round that were specified by Clayton Yeutter to this committee, I believe, in May.

We share those objectives, and we generally share the objectives for the new round that are spelled out in S. 1860 and other bills before this committee. Among the objectives that we think are terribly important are, first and foremost, the conclusion of a safeguard code. The administration has noted that there are 94 import restraints abroad, and some of those are in the United States, that are of escape-clause nature but that have not been subjected to the criteria of article 19 of the GATT or the criteria that we follow in section 201 in the United States.

Nations increasingly are moving away from article 19, and we think it very important that those nations be brought back to the article 19 import safeguard system.

We believe that intellectual property rights, as just stated by Mr. Dam, should be a principal objective of the negotiation; and we believe that rules to foster and protect foreign investments also are very important, as are rules for the service industries.

Although we are primarily a manufacturing organization, we think that agriculture rules are very sorely needed in the GATT. We hope that rules for agriculture will be negotiated and, hopefully, that satisfactory rules will be concluded.

Finally, Mr. Chairman, we would hope that the Senate would grant the President the authority to negotiate for a minimum period of at least 5 years and perhaps even longer because the negotiations are going to be terribly long. We would hope that, in respect of tariff settlements arrived at in the negotiation, you would allow the President to have a proclaiming authority as he traditionally has had to negotiate reductions and then proclaim them, rather than, as in the case of the House bill, to have to bring the tariff reductions back to Congress for its prior approval. That, I think, is a prescription for a very small tariff settlement.

Thank you.

The CHAIRMAN. Thank you. Mr. Fox.

[The prepared written statement of Mr. McNeill follows:]

Emergency Committee for American Trade 1211 Connecticut Ave Washington DC 20036 (202) 659-5147

STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN EMERGENCY COMMITTEE FOR AMERICAN TRADE, BEFORE THE SENATE FINANCE COMMITTEE HEARINGS ON TITLE IV OF S.1860

Wednesday, July 23, 1986

I am pleased to be here today to summarize the views of the Emergency Committee for American Trade on the prospective new round of multilateral trade negotiations. With worldwide sales of around $700 billion, the 60 members of ECAT have a vital stake in world markets and in U.S. international economic policies.

We are pleased that the Administration has taken the lead in the GATT to initiate a new round of negotiations. Without the exercise of that leadership it is likely that the GATT would become a more moribund organization and that our trading partners would increasingly administer their trade policies with a diminishing regard for the GATT's international trading rules - rules that have so carefully been crafted and nurtured over the years.

We are also pleased with the Administration's new round initiatives since we believe that improved foreign market access for U.S. exporters and investors is essential to reducing our foreign trade deficit. Indeed, we view the basic purpose of any new round to be to secure improved market access.

Of concern to us in ECAT, therefore, is the rather severe limitation on the President's negotiating authority contained in H.R.4800. The limiting provision is that items ineligible for duty-free treatment under the GSP program are to be reserved from the new round of trade negotiations. Any exceptions to this prohibition would have to be subsequently approved by the Congress under the fast track procedure. Such items as textiles and apparel, watches, footwear and certain glass and leather products would thus be removed from the new round. If the United States enters the prospective negotiations with that large a volume of its imports removed from the scope of the negotiations, then the whole negotiation is going to be limited since our trading partners can be expected to follow suit. We urge that the Senate not legislate such a restricted negotiating authority, which would limit prospects for a successful round of trade negotiations at the very outset.

ECAT's views on appropriate negotiating objectives are very much the same as those suggested by the Administration and the same as those listed in H.R.4800 and in Title IV of S.1860. There appears to be little, if any, private or public disagreement as to objectives. Our only cautionary note is that the negotiating plate should not be too full. What is to be on it has clearly to be agreed in advance of the negotiations. And it should, in our judgment, clearly be understood that non-attainment or under-attainment of some agreed objectives should not at the end of the negotiations be equated with failure of the whole enterprise. Many of the objectives expected to be approved by the GATT Ministers at Punta del Este in September, 1986, for the new round of negotiations will only be achieved in increments over the years. What is important is the willingness of the United States and our trading partners to begin the multilateral process of developing international norms to provide both discipline in domestic economic matters that have effects on others and norms that will govern international trade in services and other sectors not presently covered.

Rather than repeat what has been said by Ambassador Yeutter and others as to negotiating objectives, I would like to include here the list of items that ECAT recommended for consideration in a new round of GATT negotiations in a report to the Chairman of the President's Advisory Committee for Trade Negotiations last year. The list is as follows:

UNFINISHED BUSINESS

Conclusion of a safeguards code
Rules for trade in agricultural products
Rules for trade in textiles
Rules for trade in tropical products
Revision of the International Procurement Code as well as review and possible revision of the other codes negotiated during the Tokyo Round
Conclusion of a counterfeiting code

NEW BUSINESS

Tariff liberalization
Rules for trade in services
Rules for trade in high tech items
Rules for international investment
Rules to foster and protect intellectual property rights
Rules for significant non tariff barriers
Rules for Counter Trade
Rules for international information exchanges (trans-border data flows)

GATT STRUCTURE

Changes in the GATT may be required to address not only the above items but also to improve dispute settlement and other GATT procedures.

Critically important will be the addition to GATT of a new section establishing rules to govern trade with non-market economies and with state-trading entities in mixed economies. The prospective membership of China in the GATT makes this a most timely and important issue.

PROCEDURAL ISSUES

A variety of negotiation procedures may be necessary to handle the above items. Some, such as tariffs, can well be treated in the new round whereas others may best be handled through a new round of trade negotiations, through permanent and ongoing negotiations, or through special GATT work programs.

RELATED ISSUES

> The GATT system should be better related to international financial and related institutions and trade and financial issues must be more closely coordinated in the United States.

From that list, I would like to comment briefly on but a few of the items. Among them is the critical importance of concluding a safeguards code that will make Article XIX of the GATT a working reality. As reported by Ambassador Yeutter in testimony to the Finance Committee on May 14, 1986, the GATT Secretariat has identified 94 recent safeguard-type actions taken outside the relevant provisions of the GATT. Most of these were by Japan and the European Communities. A few, however, were by the United States, including auto and steel import restraints.

United States practice, however, generally provides the standard that we would like to see practiced by others. Transparency and due process are essential. Regrettably, these and other Article XIX elements are nearly universally abused with the consequence that exports otherwise destined for foreign markets end up in the U.S. market. To the extent that such imports cause distress to U.S. industries, the result is unfair. We view, therefore, conclusion of a safeguards code based on Article XIX of utmost importance in the new round.

We also view the development of rules that will foster and protect intellectual property rights as a critically important area for the negotiations. Absent such protection, U.S. corporations will lose the competitive edge provided by their intellectual property. They will be less willing to license and manufacture abroad. The pirating of patents and other intellectual property rights by many of our trading partners is increasingly becoming a serious drag on the willingness of American companies to do business abroad. It is also eating into the profits of both U.S. parents and their foreign subsidiaries.

Both developed and developing countries are the problem in the intellectual property area. ECAT members and others are appreciative of recent legislation making the protection of intellectual property rights a factor to be considered in deciding on both GSP and Caribbean Basis Initiative benefits. A good beginning has been made and we hope for the development of international rules in the forthcoming new round.

We feel similarly strongly that international rules are needed for foreign investment. While it appears that such rules are less likely than for intellectual property rights protection, we urge U.S. negotiators to continue to press for the inclusion of investment issues on the negotiating agenda.

Another area that we would like to emphasize is the need to improve GATT's rudimentary rules for state-trading. China's request to resume its GATT membership makes this a very critical issue as also does the importance of state-trading entities in mixed economies and the growing importance of countertrade.

While ECAT members are mostly in non-agricultural businesses, a number of them are in the food-processing and agricultural trading businesses. We thus, as an organization, have a direct interest in international rules for trade in agricultural commodities and products.

But more importantly, we have an interest in seeing effective rules developed concerning the production, processing, and selling of farm products. Without effective international constraints, subsidized production is going to cause untold strains on the budget deficits of the United States and other agricultural producing nations.

Trade in agricultural commodities has generated growing tensions in recent years. A number of the major agricultural commodity-producing countries -- including the United States and the European Communities -- have risked all-out trade wars in order to protect the interests of their domestic growers. Each side has accused the other of blatant use of unfair trade practices to dump surplus commodities in foreign markets. Suffice it to say that few countries are free of the sins which they openly accuse their trading partners of committing. If the upcoming round of trade negotiations is to truly be credited with success in liberalizing international trade, the major importers and exporters of agricultural commodities must see to it as being in their interest to (1) reduce as expeditiously as possible their panoply of agricultural import barriers and (2) assert more discipline over their own agricultural price support and export subsidy programs.

We are mindful of the fact that the 1985 farm bill represents a determination on the part of the United States to bring its price support programs more in line with world marketplace realities and to challenge the unwarranted use of agricultural export subsidies by other countries by implementing aggressive export incentive programs. We hope that the U.S. government would be willing to consider curtailing U.S. import restrictions currently imposed on a variety of agricultural commodities as part of an international agricultural agreement. Such a carrot-and-stick approach to international agricultural trade problems by the number one agricultural power in the world could cajole and entice our trading partners into agreements that would be beneficial to all.

We in ECAT hope that a major focus of the new round of negotiations will be improvements in the structure of the GATT itself. If the GATT is to be expanded in its scope to include such areas as services, investment, and intellectual property rights, then conforming changes in its rules and structure will be necessary.

Improvements in the GATT's dispute settlement procedures should be given top priority. While no one can force members of GATT to use these procedures, perhaps some sort of mechanism could be established within the GATT whose function would be to oversee and encourage the use of the procedures as a means of resolving trade conflicts. The prospective safeguards code might include provisions regarding dispute settlements arising from Article XIX type safeguard actions.

As to the type of authority that the Congress might grant the President for the new round, we would recommend a tariff-reducing authority extending for a period of at least five years since we believe that the new round will go on for at least that long. We also recommend that the President be given a proclamation authority for implementing U.S. tariff cuts. This has been traditional and seems appropriate. Without such authority, the President's credibility will be diminished in tariff negotiations. Our trading partners will be reluctant to negotiate if the U.S. tariff-reducing offers are conditioned on their being approved by the U.S. Congress. The extent of the tariff-reducing authority granted the President has appropriately always been carefully defined by the Congress in advance of negotiations.

ECAT also recommends extension of the fast track procedures for at least as long a period as is provided for the tariff-reducing authority. Congress might want to consider an indefinite extension of the fast track since it is possible that ongoing negotiations within the GATT on a host of matters that are not subject to being completed in a finite period of time might continue beyond the new round itself. If Congress is unwilling to do this, then consideration might be given to providing assurances that needed extensions of fast track procedures would be forthcoming provided that the Congress would agree to the negotiating objectives at hand.

In addition to any new GATT round of trade negotiations, ECAT would hope that the President would continue recent efforts to improve the competitive position of the dollar in foreign exchange markets. Improved coordination between the GATT and the international financial institutions is also to be desired in order to promote more stable international trade and financial markets.

In concluding, I would like the Finance Committee to be aware that ECAT and other business organizations are pleased with the efforts of the Administration, and particularly the office of the USTR, in seeking and taking into account the views of the business community in developing the U.S. agenda for the prospective new round of trade negotiations. We are also pleased with the opportunity to express the above views to the Finance Committee.

STATEMENT OF LAWRENCE A. FOX, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS, WASHINGTON, DC

Mr. Fox. Thank you, Mr. Chairman. I am Lawrence A. Fox, vice president of the National Association of Manufacturers. I am testifying on behalf of our association, which represents 80 to 85 percent of U.S. manufacturing output and a corresponding proportion of American jobs.

Manufacturing represents the heart of the trade deficit; 76 percent of last year's $150 billion trade deficit was in manufacturing. It is the American industry and American workers who have suffered the losses as a result of the trade deficit. NAM very strongly favors the new GATT round. We feel that there are objectives that can be met most assuredly through a regime of law and order and international trade; that means enhancement of the GATT. We think the negotiation, to be successful, requires a great deal of concerted effort between the administration and the Congress and consultation between the negotiators and the Congress day to day.

We do not, however, feel that the conditions set in S. 1860 with respect to that so-called fast track or the absence of the fast track are suitable.

We think an appropriate form of consultation between Congress, this committee, the Ways and Means Committee, and the negotiators is the preferable way to go. The new trade round represents an opportunity to achieve several objectives of great importance to our economy and particularly to American industry. We feel that the GATT should be brought up to date with respect to antidumping rules and should establish some kind of discipline over industrial targeting and subsidies and should enter a number of other relevant fields of the modern world's trade.

We believe the GATT dispute settlement machinery should be brought up to date and made to function effectively. We think broadening the GATT to include investment related trade as well as investment in the more general sense as far as economic activity is concerned, intellectual property rights and trade and services are all desirable goals and will not take place unless we have a successful GATT round.

Another objective of the GATT negotiations should be to achieve a better balance in the trade relations between the industrialized countries, including the United States, and the developing countries. We no longer should tolerate a situation in which countries that are supercompetitive, for example Taiwan which is not a member of the GATT and has a $13 billion trade surplus with us and has tariffs ranging 50 percent and above; we need some way to get at that. If we can't do that in the GATT because Taiwan is not a member of the GATT, then of course we need bilateral negotiations with them.

In general, bilateral negotiations should take place where required, not wait endlessly for the GATT round to come to a conclusion. Trade negotiations with Canada are underway. I think while the 5-year or 7-year authority is going on in the GATT, we ought to undertake bilateral negotiations where possible. Thank you.

The Chairman. Thank you. Mr. Pearce.

[The prepared written statement of Mr. Fox follows:]

NAM

TESTIMONY OF

LAWRENCE A. FOX
VICE PRESIDENT FOR INTERNATIONAL ECONOMIC AFFAIRS
OF THE
NATIONAL ASSOCIATION OF MANUFACTURERS

ON

THE MULTILATERAL TRADE NEGOTIATION
AND U.S. LEGISLATIVE NEGOTIATING AUTHORITY

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON FINANCE

July 23, 1986

Mr. Chairman, Members of the Committee, I am Lawrence A. Fox, Vice President for International Economic Affairs of the National Association of Manufacturers. On behalf of the NAM, I should like first, to commend the Committee for the approach it has taken to the drafting of trade legislation, an approach which combines thoroughness with a sense of urgency, and second to thank you for the opportunity to appear before you today.

The NAM believes that a successful new round of multilateral trade negotiations is in the interest of American manufacturers. Further, we believe that the next GATT round is more likely to be successful if it is conducted against the background of Congressionally enacted negotiating authority that provides an unconditional assurance of "fast track" consideration of any agreement or agreements that result from these negotiations. The Congress and the adminstration should be reasonably clear about the U.S. objectives for the next trade round from the outset, but the authorizing legislation should not undercut those objectives by unduly tieing the hands of U.S. negotiators or raising premature doubts about the ability of U.S. negotiators to deliver on the U.S. end of any international trade bargain.

MANUFACTURING AND TRADE

Before elaborating on these concerns, I think it is important to explain our understanding of the very serious developments in U.S. international trade that we have witnessed in the last decade. Since 1976 the United States has run up more than one-half trillion dollars in red ink--$591 billion--in its merchandise trade account. 1985's contribution to that statistic, nearly $150 billion, has properly served as a warning bell to many. It has signalled that America is confronting a crisis of competitiveness, and more and more people are beginning to understand the ramifications of that crisis. The newspapers last week were full of reports to the effect that the bloom is off the rose of the U.S. recovery and a good part of the blame belongs to the economic drag of the trade deficit. Putting the irony of incompatible indicators together, a Washington Post editorial asked:

> How can consumption rise while production falls? The explanation is the foreign trade deficit. Imports fill the gap. Because production is falling, there's plenty of spare capacity in American industry, and businesses have been cutting back on new investment. Business investment is one of the key determinants of economic growth, and falling investment is not a healthy sign. As long as the trade deficit remains sky high and business investment continues to slide, it's very hard to see what could produce faster economic growth in this country, or in the world.

The 1985 trade deficit can also serve as a useful starting point for analysing the nature of U.S. trade. In the simplest terms one begins with America's 1985 exports of $213.1 billion dollars, 68 percent of which were manufactured goods, and subtracts America's $361.6 billion in 1985-imports, 71 percent of which were in manufactured goods. That gives us the astounding trade deficit of $148.5 billion, 76 percent of which can be accounted for by the $113 billion deficit in manufactured goods.

The conclusion is clear. Manufactured goods represent the heart of American trade.

The National Association of Manufacturers is an organization of some 13,500 companies. Taken together these firms account for roughly 80 percent of U.S. industrial output and 85 percent of U.S. industrial employment. It is they who have suffered the most directly from the erosion of U.S. competitiveness. The trade deficit is, of course, a reflection of a wide range of economic activities. What one sees in breaking it down is that in virtually every major sector of manufactured products U.S. industry has lost ground to foreign competitors. This point is well illustrated in the attached chart "Major Sectoral Balances in U.S. Manufactures Trade", which is taken from NAM's recently released report, U.S. Trade Balance At A Turning Point: Can We Eliminiate the Trade Deficit by 1990?

WHY A NEW GATT ROUND

The question arises, if international trade has proven so costly to U.S. industry in recent years, why is NAM trying to expand trade? Why does NAM support a new GATT round, which must have as its goal more trade among the contracting parties?

Let me say most emphatically that NAM's support for a new GATT round is not a position taken in spite of the American trade crisis but because of it. Competitiveness is an extremely diffuse concept, involving areas of national life as diverse as education policy, investment policy, monetary policy, and trade policy. In the areas of trade and international economic policy alone, there are a number of goals that Congress and the administration not only should but must pursue concurrently if we are to stem the erosion of U.S. competitiveness. A new round could take several years, and we cannot wait that long for an improvement in the trade account. The measures that must be pursued now include:

a) an exchange rate system that provides relatively stable relationships among the world's currencies and that is reflective of the trade competitiveness of the major trading nations;

b) the elimination of unfair foreign trade practices that adversely effect U.S. commerce, and the continued aggressive use of the powers granted to the President under Section 301 of the 1974 Trade Act to this end. Section 301 cases are especially appropriate where other remedies are either not available or not adequate to the task;

c) increased market access for U.S. exports through bilateral negotiations, such as the MOSS talks with Japan;

d) maximum freedom for U.S. firms to operate unhindered by governmental intervention in the North American market, which should be the objective of the trade negotiations with Canada;

e) a system of U.S. trade laws that is responsive to the needs of U.S. industry and consistent with the requirements of a meaningful international trading system; and

f) fair and enforceable rules of international trade that are as responsive to the realities of international commerce as they can be.

The focus of this morning's hearing is of course the last of these, which might be loosely restated as improving the GATT. It is important because the American economy is now inextricably linked to the world economy. The United States is both the world's largest exporter and its largest importer. There is no plausible scenario in which the United States could significantly disengage from world commerce. The question, then becomes, under what conditions and what set or sets of rules will America's trade with the rest of the world be conducted.

One of the attachments to my testimony is an NAM Resolution On A New GATT Round, which was approved by NAM's Board of Directors last February. This begins with the statement: "The National Association of Manufacturers believes that the interests of U.S. manufacturers are best served by an open international trading system that is founded upon agreed rules of commerce." In other words, the GATT.

The difficulty, as the Members of this Committee know and as many of the countries that are members of the GATT understand, is that the rules that make up the GATT, or the General Agreement on Tariffs and Trade, no longer provide the kind of standards or discipline that the trading system needs. The GATT still operates as a break on some of the mercantilistic impulses of governments, but its ability to do so is diminished. The failures of the GATT dispute settlement process have seriously undercut its credibility. This has been compounded by the failure of existing GATT rules to address a range of practices that seriously distort international trade flows. Industrial targeting, new forms of dumping and the absence of rules on investment, trade in services, and in-kind subsidies are among the most important uncovered areas from the point of view of U.S. business.

WHAT DOES MANUFACTURING HOPE TO ACHIEVE

NAM's goals for the next round of GATT negotiations were set out in April of 1985 in a letter from NAM's President, Alexander Trowbridge to the chairman of the Advisory Committee on Trade Negotiations, Edmund Pratt of Pfizer. Mr. Trowbridge's letter to Mr. Pratt is attached along with a position on the new round adopted earlier this month by NAM's International Trade Policy Committee. This latter document sets out four principal objectives for the next GATT round, viz, i) clarifying the existing rules, ii) broadening the scope of the GATT, iii) enhancing the GATT's effectiveness, and iv) generally improving the conditions of international commerce so that trade flows reflect worldwide market opportunities rather than national market barriers. It is these four priciples that I would like to concentrate on here.

CLARIFYING THE RULES

Safeguards. The GATT is in the trouble it is today because some of its most important provisions, like the escape clause or Article XIX, are more frequently ignored than honored. As a result the trading system is burdened by many more trade restrictions than it would be if Article XIX were really the principal means of dealing with the problems engendered by fairly traded goods. It is not, and faith in the system is undermined because producers know that their trade is being harmed by the special arrangements of others, but they do not know precisely what those arrangements are. A new safeguards code was one of the unachieved objectives of the Tokyo Round. We cannot afford to let it elude us much longer.

The negotiations have now been stalled for years over the question of whether a new code should permit selective safeguards, that is import limitations against the products of only certain countries. The United States government has consistently opposed selectivity, and that position was buttressed somewhat by the 1985 report of "seven eminent persons," including Sen. Bradley, entitled Trade Policies for a Better Future. "We are in no doubt," the report said, "that the safeguard rules of the GATT must outlaw discrimination." NAM understands and is sympathetic to that view.

But we are more concerned that failure to negotiate a new safeguards code will ultimately destroy the GATT. It is perhaps time to ask ourselves whether a compromise on selectivity might not be preferable to the current logjam.

Targeting, Subsidies and Dumping. The events of the last several years have highlighed other weaknesses in the GATT. From the Houdaille machine tool case, to the semiconductor 301 petition to the serious difficulties that steel, electronics and other sectors of U.S. industry have suffered from dumping, it is very clear that the rules of the GATT in these areas are woefully inadequate. American industry cannot be expected to be confined by the GATT's notions of unfair subsidies and unfair dumping unless the GATT defines those practices in ways that are relevant to the full range of harmful, trade distorting practices that subsidies and below cost selling entail.

It is essential that the contracting parties of the GATT try to provide discipline over industrial policies, e.g., targeting, that distort trade and adversely affect the commerce of others. In the past, the Reagan Administration argued against expanding U.S. countervailing duty law in these areas on two grounds. The first was that these kinds of problems would be better dealt with under Section 301 of the 1974 Trade Act than under the countervailing duty law. The second was that, before changing our own countervailing duty laws in this area, the United States should first pursue a multilateral understanding on targeting in the GATT. NAM believes that this should be a major U.S. objective for the next GATT round.

The current GATT understanding on antidumping action is similarly flawed. Whether the United States will be able to continue to live by the GATT in this area will probably depend upon our ability to get our trading partners to agree to improve it. Briefly, there is currently no provision against diversionary or downstream dumping. It is not surprising that this has become a major commercial problem in sectors where it is economically feasible for the exporter. The fact that this issue is extremely complex can no longer be used as an excuse for not addressing it.

A further serious flaw in the GATT's approach to dumping, both in the 1979 Code and in the General Agreement, is that it provides no meaningful sanctions against predatory pricing; yet in international trade the antidumping laws are the main defense against such practices. This too has to be remedied.

BROADENING THE SCOPE OF THE GATT

The NAM supports the view that the GATT needs to be expanded in three critical areas: investment policies with implications for trade, protection for intellectual property rights, and trade in services. The effort we as a country will be putting into the new GATT round should at least produce an agreement that helps us curb the serious international problem of product counterfeiting. The more difficult but no less important task will be the that of developing new rules for the protection of intellectual property.

The distinction between investment policies and trade policies, between trade in services and trade in goods are at best occasionally useful analytic constructs. In reality, these areas of activity are so interdependent as to render meaningless the effort to provide discipline in one area alone. Protectionism achieved through investment policies or bans on services critical to certain products should be no less a concern than protectionism achieved through quotas.

ENHANCING EFFECTIVENESS: DISPUTE SETTLEMENT

Rules that apparently cannot be enforced discredit the GATT trading system as much if not more than the absence of clearly necessary rules. There is a general perception that the dispute settlement procedures have not been effective, and that perception has to be changed. At the very least this should mean providing reasonable deadlines for the work of the panels that consider disputes between contracting parties. A more dramatic step would be altering the rules so that parties to a particular dispute would not have the ability to block a GATT finding on that dispute. Such a course would pose certain risks for the United States, but it should, nevertheless, be viewed as one negotiating option. It is the kind of meaningful modification of the present system that needs to be explored.

GATT AND THE LDCS

Opening Developed Country Markets. This objective is more general than those above and in a sense embraces them. Achieving it may in the end be the essential test of the round to be launched at Punta Del Este and of the GATT itself. It is perhaps not reasonable to quantify the goal, but the nature of the problem is suggested by the available numbers. The U.S. Trade Representative's Office, using data published by the GATT, has calculated the proportion of manufactured exports from less developed countries that are purchased by the following five developed countries or trading blocs: the United States, Japan, the European Community, Canada, and EFTA (European Free Trade Association). They did this for the period between 1979 and 1984.

As of 1984, the disparities were dramatic. In that year the United States took nearly 62 percent of the LDC manufactured exports that were shipped to these five developed areas. Japan took a little less than 8 percent, and the European Community took about 23 percent. One would want to know the answers to several questions before suggesting what these percentages should be, but it is clear that there is something wrong. At the very least there is the strong inference that the LDC development the world so sorely needs is being thwarted by commercial policies in Europe and Japan, policies that deny market opportunities to LDC manufactured exports. Identifying and getting rid of those trade barriers would be a major accomplishment, one that ought to benefit virtually every member or contracting party of the GATT.

LDC Graduation. There is another aspect to economic relationships between developed and less developed countries as they are played out in the GATT. Part IV of the GATT established a principle, echoed elsewhere, that developing countries are special and somehow do not have the same responsibilities as developed countries. Section 8 of Article XXXVI, for example, says that:

> the developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed contracting parties.

In view of the export success of countries like Taiwan, Korea, and Brazil, and the fact that countries now decide for themselves whether they should be regarded as developed or developing, this principle clearly needs amendment. The 1984 renewal of the U.S. GSP program suggested a possibility, namely that there should be definite standards for defining a contracting party as developing or developed. We suggest this merely as an option. The essential point is that the successful developing countries, such as those I have named, need to shoulder a greater portion of the responsibility for keeping the international trading system going.

AGRICULTURE

Separately, I should like to say that NAM recognizes the necessity of improving the GATT's ability to deal with agricultural disputes and to establish meaningful discipline over government agricultural policies that affect trade. From industry's perspective, there are two reasons for this. The first is that the failure of the present system to deal adequately with agricultural problems has greatly harmed the system itself. The second is our recognition that just as world trade cannot be neatly divided between, for example, trade and investment, national economies cannot be neatly divided between agriculture and industry. When America's farmers are successful, so are our producers of fertilizers, tractors, and a host of other products. When they do poorly these other sectors suffer as well. And when U.S. industry is taxed to help agricultural producers meet subsidized foreign competition, everyone loses. If we can really bring agriculture under GATT discipline, everyone--the United States, the less developed countries and the world community generally--should gain. American efficiency in agriculture will be rewarded in world markets if exchange rates are reasonable and government import controls are reduced.

NEGOTIATING AUTHORITY

Preclearance By Committees

At this point, Mr. Chairman, I should like to share with the Committee NAM's concerns regarding the character of the negotiating authority. Both H.R. 4800, the House omnibus trade bill, and S. 1860, which is being reviewed by this Committee, provide conditional grants of the fast-track authority. It is our hope that the Congress will rethink the notion of conditionality in this context. NAM believes that America's important and ambitious goals for the next trade round are more likely to be realized against the background of an unconditional grant of fast-track authority for the final package than otherwise.

As we understand it, fast track authority is essentially a promise. Formally, it is Congress's promise to the Executive Branch to give timely consideration to trade agreements or implementing legislation that may result from negotiations authorized by the Congress. In practice, and just as important, it is also a promise to America's trading partners. Our justly famous separatiion of powers poses difficulties for the United States as a negotiator. Parliamentary governments have little trouble assuring their trading partners that what they agree to internationally they can implement domestically. Our situation is more complicated, and trading partners perceive a "danger" in making a deal with the Executive that can be amended by Congress. They know full well that trade is a Congressional responsibility, and they are extremely reluctant to enter into trade negotiations without some assurance that any bargain struck with the Admininstration will at least be given an up-or-down vote in the Congress....without amendments. An unconditional provision of fast track authority provides this assurance.

S. 1860 seems to suggest, however, that the fast track authority will only be granted if the Senate Finance Committee and House Ways and Means Committees receive a satisfactory, interim progress report at a particular juncture. Such a formulation ignores both the reasoning outlined above and the realities of negotiations. Breakthroughs are not made in the middle of negotiations. They are made at the end.

Having said that, I should add that it is our strong hope that the contracting parties will not save all of the fruits of the next round until the last month or two of negotiations. There are several areas, such as improving the dispute settlement procedures, in which progress should not depend upon concessions in other areas and in which a new agreement would be beneficial to all. If we are lucky, the next round will be characterized by a series of agreements announced throughout the course of the negotiations.

In any case, successful negotiations without the intense involvement of the Senate Finance Committee and House Ways and Means is unimaginable. But the kind of interchange needed is better assured by the prudence and good faith of the people concerned in the Administration and in the Congress than in modifications of a successful technique for solving an American negotiating dilemma.

Additionally, there is the problem of finding the proper standard for measuring an agreement. If interim progress is what is measured, those doing the measuring, the Senate Finance Committee and the House Ways and Means Committee, will necessarily look to the legislative criteria for success. Those criteria will be important in any case. At the end of the day, however, the real question for the Congress in evaluating any trade agreement will not be whether it meets a series of objectives set out several years earlier. When an agreement comes home, the proper question for the Congress will be: Would its adoption by the United States advance the economic interests of the United States?

Exchange Rates And Conditionality

The House bill, H.R. 4800, expressly denies the use of the fast track provision for the consideration of trade legislation (Section 102 of the Trade Act of 1974) unless either an international exchange rate conference has been convened or the President has reported to the Congress that such a conference cannot be convened.

NAM has only praise for the concern that lies at the root of this provision. The floating exchange rate system as it has operated in this decade, at least until September 22, 1985, was the single biggest factor driving the U.S. trade deficit, and the work to achieve a more rational exchange rate system has really only begun. The all but unmanaged floating system proved not only an incitement to protectionism, it made it impossible for industrialists to plan investments rationally. This has been because both costs and pay-outs have been subject to wild gyrations in the short, medium and long term. Unquestionably the system has to be improved, and any permanent improvement will require an oversight role for Congress respecting exchange rates.

The difficulty is that effective international cooperation, especially in this area, cannot be easily mandated by the Congress. As the events of this past year have borne out--the Plaza Hotel Meeting in September and the progress of the Tokyo Summit--international cooperation on exchange rates is not subject to blueprint preorganization, and its success depends far more on the will of the actors than on the plan. The National Association of Manufacturers does believe that the next GATT round should run parallel to talks on improving the exchange rate system. We do not believe, however, that either set of talks should be legislatively conditional on the other.

Mr. Chairman, in describing the events last year, the recently released GATT Activities 1985 states that "...protectionist pressures in the United States Congress were again sending out the wrong signals to the trading world at large." Mr. Chairman, we disagree. The signals coming from the Congress, both House and Senate, do indeed have a profound meaning. The trading system is in very serious trouble. The Punta del Este trade round is not just about whether some improvements are made to the GATT. It is about role of the GATT in international trade. If this round is not successful, the GATT will be a dead letter. And of course our best hope for success is an appreciation of that fact by America's trading partners.

American industry believes that the necessary changes can be made and that the U.S. economy will be far better off with an improved GATT than the next best alternative. We also believe, however, that the Congress should be prepared to reject any agreement that does not advance the economic interests of U.S. industry.

Thank you.

STATEMENT OF WILLIAM PEARCE, SENIOR VICE PRESIDENT, CARGILL, INC., MINNEAPOLIS, MN; ON BEHALF OF THE U.S. CHAMBER OF COMMERCE

Mr. PEARCE. Thank you, Mr. Chairman. I am William R. Pearce, senior vice president of Cargill in Minneapolis. I am appearing here today for the U.S. Chamber of Commerce.

I chair a chamber working group with Mr. Herzstein that has met over a period of several months, attempting to develop recommendations to the administration for a new round of multilateral trade negotiations. I can be brief because you have my statement and because we agree with so much of what has been said here today.

The chamber's view is that the GATT process has been very successful in reducing barriers to trade and expanding trade over the years. We think that the United States has benefited from this enormously. Notwithstanding this record, we recognize that changes in the character of the world economy have rendered the GATT inadequate in the view of many people as a mechanism for regulating international trade.

They see the coverage of the GATT as too narrow, obligations unclear, disputes resolved very slowly if at all, and in fact, the GATT rules are often ignored.

Restoring confidence in the GATT, which we think is useful and important, requires a negotiation with a very carefully worked out agenda, and we believe that the United States should take the lead in this process. The agenda we see is a combination of what might be described as unfinished business and new business. The next round of multilateral trade negotiations should attempt to improve the workings of the GATT dispute settlement mechanism and to strengthen the codes developed in the Tokyo round: subsidies, antidumping, government procurement. Also, work should be continued on the safeguards code.

The GATT's overall scope should be expanded—and this is the new business for the GATT—to include rules on intellectual property rights, trade in services, international investment, and should include another effort to come to grips with the problems of agricultural trade.

The chamber urges the Congress to provide the administration the authority to conduct this negotiation, tariff authority and authority to deal with nontariff barriers, and we urge that the Congress do so without conditions that would make it very difficult to conclude the negotiations and without imposing changes in the trade rules that would make successful conclusion of the negotiations very difficult.

Thank you, Mr. Chairman.

[The prepared written statement of Mr. Pearce follows:]

STATEMENT
on
THE NEW ROUND OF
MULTILATERAL TRADE NEGOTIATIONS
before the
SENATE COMMITTEE ON FINANCE
for the
U.S. CHAMBER OF COMMERCE
by
WILLIAM R. PEARCE
July 23, 1986

Mr. Chairman, I am William R. Pearce, Senior Vice President, Cargill, Incorporated, Minneapolis, Minnesota. I am also Chairman of the U.S. Chamber of Commerce's GATT Working Group. From 1971 through 1974, I served as Deputy Trade Representative of the United States.

The U.S. Chamber appreciates this opportunity to present its views on a new round of multilateral trade negotiations. The Chamber supports a new round and urges timely Congressional approval of the authority for the Administration to conduct such negotiations. The Chamber also urges the Congress to avoid imposing conditions or otherwise altering the existing trade laws in ways that would undermine prospects for success.

Multilateral Trade Negotiations

The GATT process has been very successful in reducing tariff rates and enhancing the growth of world trade. Since its inception in 1948, average tariff rates have fallen from 40 percent to five percent. World trade has grown eightfold.

The U.S. has benefited enormously from these developments. It is today the world's leading trading nation. Merchandise trade accounts for 15 percent of U.S. gross national product. Exports provide a market for nearly a fifth of the product of U.S. goods-producing industries.

Although exports of farm products have declined somewhat, the U.S. is still the world's leading farm product exporter. Prospects for growth of the agricultural sector are substantially dependent on the growth of foreign sales.

Small business in the U.S. has also benefited from international trade, although an enormous potential can still be realized.

Notwithstanding this remarkable record, many believe that changes in the character of the world economy have rendered the GATT inadequate as a mechanism for regulating international commerce. They also maintain that the coverage of the GATT is too narrow; that GATT obligations are vague and poorly defined; that GATT disputes are resolved too slowly, if at all; and that the GATT is often ignored without penalty. Declining confidence in the GATT threatens to undermine progress made through the GATT over the past 40 years.

While some of the purported inadequacies of the GATT may be more illusory than real, the threat to the international trading system is no illusion. Macroeconomic issues, such as monetary instability, developing country debt, and a lack of coordination of economic policies of the major trading nations, underlie many of the problems burdening the international system. As part of a well coordinated U.S. strategy encompassing multilateral, bilateral, and unilateral measures to address these problems, another round of multilateral trade negotiations is essential.

To that end, the Chamber believes that the U.S. should take the lead in shaping a broad, carefully articulated agenda. Because the number of problems is large, the negotiating agenda must be fairly extensive. To restore worldwide confidence in the GATT system and to avert trends toward protectionism, all its major inadequacies and limitations should be addressed.

An Agenda for the Multilateral Trade Negotiations

Among the most important components of the new round should be efforts to strengthen obligations under the GATT and its related codes. Rules and procedures are in some cases unclear and undercut by exceptions--often reflecting a lack of agreement and political compromise in the original drafting of the GATT and related codes. Even clear rules sometimes are ignored.

Improvement of the dispute settlement process should be given priority. It is perceived as slow and inconclusive. The inability to enforce rights under GATT rules is, for many, a major reason for declining confidence in the GATT. Amendments achieved in a new round should ensure that disputes are settled fairly and expeditiously; that panel procedures are improved; and that panel decisions are given greater weight. If these are accomplished, a developing body of GATT precedent should clarify ambiguities in the GATT and its codes and reduce uncertainties about the nature of GATT rights and obligations.

The codes negotiated in the Tokyo Round need to be strengthened.

For example, it is important that negotiators clarify provisions of the Subsidies Code. The definition of prohibited subsidies should be expanded. The treatment of domestic subsidies that have international trade effects and of subsidies for agricultural products especially needs attention in a new round.

The Anti-dumping Code does not address the problem of "diversionary dumping" or the incorporation of unfairly priced inputs in end products for export. The Chamber has urged the Administration to "pursue a solution to this problem through multilateral trade negotiations."

The completion of a Safeguards Code, begun in the Tokyo Round, should be a high priority in the new round. Objectives for a new Safeguards Code should include, among other things, a preference for the use of tariffs, the coverage of all measures used to restrict imports, clear criteria for determining injury, transparency, effective international surveillance, and a clear demonstration that safeguards will facilitate adjustment.

The coverage of the Government Procurement Code should be broadened, and the code should be strengthened to improve compliance, transparency, and fair access for foreign producers.

Expanding the Scope of the GATT

The importance to the U.S. of expanding GATT coverage has become increasingly clear. Efforts in that direction should begin in the next round of negotiations.

For example, it is important that ways be found to strengthen the protection of intellectual property rights. Piracy and other forms of infringement seriously undermine incentives for innovation and negate the gains from trade. Because inadequate protection of intellectual property rights distorts trade and investment, it is an appropriate subject for consideration in multilateral trade negotiations. In the new round, the U.S. should seek to broaden support among GATT members for the use of trade measures to enforce international protection of all intellectual property rights, including trademarks, copyrights, "mask works," trade secrets, and other proprietary technical data.

Trade in services is also an increasingly important segment of international commerce. The overall objectives for this area in a new round should be to establish principles and procedures for reducing barriers to trade in services. Such principles could include national treatment, nondiscriminatory treatment, the right of establishment, the right to transact business, transparency, reductions of distortions of trade, and other principles long associated with the GATT.

Similarly, a new round should examine ways to reduce two forms of restrictions on international investment: trade-distorting investment restrictions and general investment restrictions. As a first priority, the U.S. should focus on negotiations on certain trade-distorting investment restrictions. The discussions then should address the problem of general investment restrictions and the need for an adequate mechanism for resolving disputes concerning investments. Work in this area must consider the interests of U.S. companies that have structured foreign investments under existing performance requirements.

Negotiators in earlier rounds have failed to deal effectively with problems of agricultural trade. Agricultural trade should be brought under rules and disciplines similar to those that govern merchandise trade. The U.S. must be prepared to place its own agricultural trade restrictions on the table if this goal is to be achieved. Successful resolution of the dispute between the U.S. and the European Community arising out of treaties providing for the accession to the Community of Spain and Portugal could lay the groundwork for progress in this area.

The U.S. should address in the negotiations the institutional framework for trade both with developing countries and non-market economies. The negotiations should distinguish between the treatment given newly industrialized nations and that afforded the least developed countries. Generally, as each country develops and becomes more prosperous, it should be required to forego the preferences and other privileges afforded developing countries under the GATT. In light of China's stated desire to resume its relationship with GATT, it will be increasingly important to explore whether multilateral standards governing trade with non-market economies can be established.

Trade Agreement Negotiating Authority

The Chamber urges the Congress to provide the Administration the authority it needs to address these problems and opportunities in a new round of multilateral trade negotiations.

First, the Administration needs the authority to negotiate reductions in tariff levels. The fact that many tariffs are already low does not mean that tariffs cannot be further reduced or that they do not have a substantial effect on trade. Many of the less developed and newly industrialized nations maintain high tariffs on a wide range of products, and these tariffs often constitute the most important barrier to their markets. The ability to offer limited tariff reductions is likely to be important in reducing high foreign tariffs and binding the currently unbound tariffs of many developing and a few developed countries.

The authority to negotiate reduction in non-tariff barriers provided by Section 102 of the Trade Act of 1974 expires January 3, 1988. An extension of that provision under acceptable conditions seems essential to establish the credibility of U.S. negotiators.

The Congress should extend authority both for tariff and non-tariff trade barrier negotiations. In doing so, it should avoid imposing conditions that could undermine the prospects for a successful negotiation. While the Chamber supports negotiating objectives identified in H.R. 4800, the House-passed omnibus trade bill, and S.1860, the pending Senate omnibus trade bill, it opposes requiring the Administration to pursue specific negotiating objectives and the linking of negotiating authority to the fulfillment of those and other objectives, such as the convening of an international monetary conference. It seems essential that the President have maximum flexibility in seeking fundamental changes in existing GATT rules and procedures, a further liberalization of trade, and the extension of GATT to other important areas of international commerce.

The Chamber also urges the Congress to avoid other changes in existing trade laws that could undermine prospects for international agreement as the U.S. enters into the new round.

In summary, the Chamber fully supports efforts to strengthen, expand and further liberalize the international trading system. Trade expansion and liberalization remain at the top of the U.S. agenda. The Chamber believes that a new round of multilateral trade negotiations is one of several essential elements in the achievement of these objectives and urges the Congress to provide the necessary negotiating authorities and to avoid taking steps now that might limit prospects of success in this most important undertaking.

The CHAIRMAN. What is the matter, Mr. Pearce, with Congress putting preclearance conditions on it? We do it on bilateral negotiations. Why would it be harmful in multilateral?

Mr. PEARCE. We have a very ambitious agenda for multilateral discussions. There is a lot the United States wants and needs out of these talks. We are not likely to get everything that we want, and if we start with the proposition that nothing is acceptable unless we get everything, we make our negotiators very vulnerable to people who would like to see that as the outcome.

Now, this is not to say that the Congress shouldn't indicate what it regards as important objectives. That is important, and as I read those that are put forward in the House bill and in the bill under consideration by the Finance Committee, I think we would agree with them very broadly. The point I want to make, though, is that it would be a mistake to condition negotiating authority on the achievement of all of those objectives.

The CHAIRMAN. You don't think we could conceivably list rational objectives without, at the same time, tying the administration someplace to a better overall objective?

Mr. PEARCE. Yes; I think you can. You know whatever the administration negotiates in the way of nontariff barriers has to be brought back to the Congress and acted on under an accelerated process. I think it is very useful for the Congress to steer the administration in the negotiation. As has been said here by Mr. Herzstein, this negotiation can't succeed unless it is broadly supported by the people in the United States and unless the Congress is a full partner in it and approves the result at the end of the day.

The CHAIRMAN. Mr. Dam, you represent one of those service companies that the others were referring to. If we are able to expand our protection of intellectual property rights and services, what, in your judgment, will we have to give up in exchange, if anything—and I am assuming we have to give up something or we won't get something for nothing?

Mr. DAM. This is an old problem in trade negotiations. What we need to do is to give the administration authority to negotiate some specific objectives, and then the question is, What kind of package can the administration come back with? I think that it would be a mistake to try to identify in advance the areas in which concessions are going to be made. That would just tie the hands of our negotiators. I have no doubt, however, that it is possible to negotiate a form of agreement which will promote the strengths of American industry while, at the same time, making concessions that are not harmful to the American economy.

The CHAIRMAN. Making concessions that are what?

Mr. DAM. That are not harmful to the American economy. It has been done in the past.

The CHAIRMAN. Give me one or two of those.

Mr. DAM. I think that, in general, the Tokyo round and the Kennedy round were very successful negotiations, and I do not think that they were harmful to the American economy. On the contrary, I believe they strengthened the American economy, and in future negotiations we have to go with the strengths of our economy.

The **Chairman**. Tell me some concessions we could make now that would strengthen us.

Mr. **Dam**. It is the package that on balance can strengthen us. Senator, I am not here to make an argument for unilateral disarmament in the trade area.

The **Chairman**. What you are saying is that, in the package, there will be some industries that may be harmed?

Mr. **Dam**. That is true. I think we have to recognize that. That does not mean the American economy will be harmed.

The **Chairman**. No; I understand. You are talking about a balance—in balances, some do better and some do worse—but on balance, the country does better.

Mr. **Dam**. That is right.

The **Chairman**. Mr. McNeill.

Mr. **McNeill**. Mr. Chairman, just a comment on your question about services. In respect of services and investment and intellectual property rights and other nontariff barrier areas, I think that the balance from negotiation in these areas will be within the agreements themselves. That is, the agreements will be internally self-balanced. If, for example, you are negotiating in the area of services, the negotiation basically is going to be to establish rules that will be practiced internationally by people that sign on to the services code. So, it is not that you would be giving up tariff concessions in the automotive sector, for example, in order to get rules that would govern international trade in services. I think in many of these areas the result will be self-balancing within the sector concerned, whether it be in respect of services or intellectual property or other areas.

Balancing in terms of tariffs traditionally takes place as between and among industries. But the greater part of the forthcoming round, I believe—and I think most believe—will be in the area of developing rules and improving existing rules within the GATT, rather than the kind of trading we have had as between sectoral tariffs in past negotiations.

The **Chairman**. Senator Baucus.

Senator **Baucus**. I am curious, Mr. Dam, about the degree to which a new GATT round should address investment practices because of increased capital flows among countries. Also, to what degree should new negotiations include exchange rates? The present GATT was agreed to at a time when there were fixed exchange rates. We don't have those now. And exchange rates have had a very dramatic effect on various industries' profit margins.

I wonder if you could address, first, exchange rates being included in the new round and, second, investment practices. As you know, Canada has had FERA, and other codes that restrict investment.

Some think that in the future, the United States will become another Canada because of increased investment from Japan and other countries.

Mr. **Dam**. Senator, first of all, I want to make clear that I am here representing the intellectual property committee, and our committee has not addressed those issues. So, I will be giving you a personal view within the spirit of the discussion here.

Let me point out, however, that to the extent that we can get better intellectual property rights, we will automatically be able to improve the overall economic environment. We would not have the kind of economy we have in the United States if we didn't have that kind of protection within the United States.

Senator BAUCUS. What about investment?

Mr. DAM. But to go to your question about exchange rates and investment as topics by themselves, I personally think it would be a mistake to include exchange rates in the GATT round. There was an attempt to include monetary matters in the Tokyo round in the sense that it was in the original Tokyo declaration; but it never amounted to anything, and the main reason is that trade negotiations are so complicated, difficult, and time consuming that, if you add on top of it not only the difficult subjects of exchange rates but also the additional bureaucracies from each country that operate on the monetary side, I am afraid the whole enterprise would sink of its own weight.

With regard to investment, I think to the extent that there are trade-related investment issues, those should be in a new round.

Senator BAUCUS. What about investment codes per se?

Mr. DAM. We should be careful to negotiate trade-related investment codes in the GATT. To the extent you introduce nontrade issues into a new round, you simply complicate it and make it less likely that there will be a satisfactory outcome.

Senator BAUCUS. Why shouldn't exchange rates be included? Some countries peg their exchange rates to the U.S. dollar and some don't. Canada, for example, does, and that is the reason why Canada still has a currency which is undervalued compared with the United States dollar. That is one reason why so many Canadian products come into the United States. The fact of the matter is that our trade imbalance with Canada on a per-capita basis, is much greater than that with Japan, and I think it is in part due to the exchange rate imbalance. So, why shouldn't that be a part of the GATT?

Mr. DAM. I am not arguing that we shouldn't address those questions. I think there are forums to address them in. I think the only question is: Is it better to try to lump it with trade in a massive negotiation that is not going to be over until the 1990's? Or is it better to address those kinds of questions today through the more flexible kinds of institutional arrangements we have in the international monetary sphere? I would personally prefer to address those questions directly, and I am not saying that they shouldn't be addressed.

Senator BAUCUS. Mr. Fox.

Mr. FOX. Senator Baucus, I think the exchange rate subject is extremely important. Most observers think that at least one-half, and probably three-quarters, of our trade is due to inattention to the exchange rate by the administration and the malfunctioning of the floating system. I think that the Senate legislation before you is flawed, however, in making the holding of an international monetary conference as a condition precedent to the GATT negotiations. They are both very important. We have used the formulation that there ought to be parallel negotiations, and I think those negotiations are, with respect to the exchange rate, or must be concluded, or we will never get them concluded successfully with an exchange rate system that works—or we will never get a satisfactory trade regime under any form of the GATT. We need a substitute for the GATT premise, which was fixed exchange rates. We need an exchange rate system that takes into account the new realities of the world.

And I think that is a negotiation that should take place parallel to the GATT negotiation, not in the same forum.

Senator BAUCUS. Does anyone else have a view on this?

Mr. MCNEILL. Just a comment, sir. I think that each one of us on this particular panel has represented the United States in international trade negotiations in the past. I don't think you would want any one of us representing the United States in negotiations on foreign exchange and monetary matters because I think we would come out with a terribly bad result because, other than knowing the denominations of American currency, I know very little about the system. So, I think that the very practical reason why you would not want trade negotiators also negotiating exchange rates.

Senator BAUCUS. I am sorry. It may be because we don't know that much about the system.

Mr. MCNEILL. It is because the people who negotiate in the GATT for the United States are steeped in and have experience and knowledge in trade. Foreign exchange matters, monetary considerations are handled by other representatives.

Senator BAUCUS. Maybe it is about time they learned something about it.

Mr. MCNEILL. It may be, and I think that Mr. Fox's suggestion was the correct one; and that is that you have some sort of a parallel negotiation where you try to arrive at improvements in both the monetary as well as in the trade structure.

Senator BAUCUS. Thank you.

The CHAIRMAN. Senator Long.

Senator LONG. Mr. McNeill, it seems to me that the unrealistic exchange rate with Japan is something that Japan apparently very much likes. The way we collect taxes as compared to them, combined with this exchange rate, worked out just about as though we were helping them to sell their goods into our market at a 40-percent discount over a period of years.

Now, considering the fact that those are hard-working, efficient people, I think we have to give them all the credit in the world for the progress they have made since World War II. If we are just going to let you negotiate an agreement and leave that exchange rate thing open ended, then in view of the fact that where their tax is a consumption tax, which works out something like a value-added tax, while ours puts our tax burden strictly on our producers, I don't see how they could do anything but just gradually put into effect a Morganthau plan for to the United States—make it into a pastoral nation as Morganthau proposed to do with Germany, to see they didn't start another war.

I don't see how, sitting where we are, we can responsibly do our job without looking at that monetary thing as well as the trade part of it.

Mr. MCNEILL. Senator, I couldn't agree more with you. I was simply stating that I think the exchange rate question should be handled parallel with other negotiations in the trade field. It is very difficult to compete when you have the great disadvantage we have had in the dollar/yen relationship. I mean, it is a prescription for a one-way trade picture; and certainly we have to address both.

Senator LONG. Part of the prosperity this Nation has been enjoying has to do with these very large trade deficits year afer year. We have used up all the surplus that we had compared to the rest of the world, which in present-day dollars would have amounted to about $1 trillion.

And now, we are coming into the process of becoming not only a big debtor, but we are in the process of owing more money than the rest of the world—than all the world debt put together. Now, the companies that you gentlemen are speaking for are, in the main, doing very well under that situation. But how long can this Nation keep running these enormous debts?

Either the creditors say, "We don't have any more confidence and we want you to pay it off," or they say, "Want to buy up your real estate with it."

Mr. MCNEILL. I would think, Senator, not for a very long period of time because the rate at which we are incurring debt and the volume of that debt is just mind-boggling. And that is why I think those of us on this panel believe that a viable way to try and improve the trade deficit is to try to get improved market access for our exports abroad. Indeed, that should be the main purpose of the new round and I think the primary reason why we all support it.

Senator LONG. But at the rates things are going, it looks to me like the way to solve the crisis with Mexico is to say, "Let's just temporize this thing for a few years until we are the ones that can't pay off. We would suggest that Mexico default and then we default." We aren't going to be able to keep this up. I am not going to be around the Senate to worry about it too much. Maybe I will have the good fortune to be representing someone who is doing well out of all this fiasco. [Laughter.]

But it seems to me that, at some point, this thing needs to be turned around; and I would just like to ask when it is going to be turned around. When are we going to start paying our way?

Mr. MCNEILL. I share your concern, sir, that it should be soon.

Mr. FOX. Senator Long, I wonder if I might comment?

Senator LONG. Sure, go ahead.

Mr. FOX. It is obvious that the United States has to pay interest on the money we have borrowed abroad. We are a bigger debtor now than Brazil; and by 1990—the figures are already in the computer—the United States international indebtedness will be about a half a trillion dollars. That is going to affect the American standard of living. There is no doubt about it; it already is. By the year 2000 it will be obvious.

We have to have a trade surplus in order to reverse the deficit that we have in the current account and to pay the interest on the debt we have already contracted. The American people are in for a slow shock. In the year 2003, they will realize that the good times now enjoyed are being paid for in a relatively lower standard of living for all Americans.

Senator LONG. May I proceed for another minute or two?

The CHAIRMAN. Oh, yes, go ahead.

Senator LONG. It seems to me that these big deficits we have are something that we cannot negotiate away. Our deficits are the other guy's profit. Some of them that have a deficit trading with other nations have a profit trading with us. So, our big deficits are what is keeping the world system going, it appears; but we can't keep it up.

And I don't see in my mind's eye these countries just voluntarily giving up these lovely surpluses they have, which constitute our deficit. I believe we are going to have to act unilaterally and say, "I am sorry, fellows, we can't do this any more. We can't keep this up." At some point, we are going to have to tell them: "Look, we are not over here begging you to help us the way those Japanese think we are when we tell them that something has to change. We aren't over here begging for your cooperation. We are just telling you what we are getting ready to do. Now, if you want to help avoid that happening, OK; but otherwise, in due course, this is how it is going to have to be."

And frankly, I think that in countries like Japan they have some economists smart enough to understand all that.

Mr. FOX. My view, Senator, is that this matter is understood only dimly. Export-led growth is the policy of every country in the world except the United States and Switzerland. It pays to do it, and therefore, they have done it. And until they perceive that there is an end to the ball game and the end is an unsatisfactory one, they are going to continue to do it. The trade negotiations that are conducted in a tough way but sincere in our interests, recognizing the interests of others, is one means by which other countries will perceive that they have to learn to grow on their own. They simply can't count on the U.S. market as the only engine of growth for them.

I was at the Exchange Rate Conference in Zurich with Senator Bradley and Representative Campbell. The Germans just love this setup. They are just going to export their way out of their unemployment, which now is still very high. They make the assumption that the exchange rate system, although it has difficulties, it is beautiful so long as the mark remains where it is and so long as the United States has no prescription, either in the exchange rate area or in the LDC debt area or in the trade area, things are going to drift along as they are now doing to an end which will not be a very convenient one for anyone.

Senator LONG. I would think that Dr. Ohita is probably the best, most respected economist in Japan. He has been recognized by their Government and has been made their Foreign Minister on occasion, their Trade Minister; and he is presently, I think, the chairman of a committee that is supposed to advise them on how to cooperate with the United States. I am confident that that man is wise enough, intelligent enough, and well informed enough to see that this thing has to change; but I don't believe that any chief executive officers over there in Japan understand it. I think some of them think they ought to go to war with us rather than do things that that man would probably understand would be necessary.

And I just wonder: Do you think that we are going to be able to make the Germans, the Japanese, and some of these people understand that this has to come to an end?

Mr. McNeill. I think the Japanese are beginning to understand; and probably if we keep pressing them, they will make the necessary changes. But in the meantime Japan is growing more slowly than before the exchange rate changes. They are buying less goods—less from us and less from other countries. Some time is required, of course, but I don't think the United States is a country that can continue to provide the import basis on which every other economy grows, absent some steps by others to make their markets more available to us. In the end, we have to solve our own trade problem and get to a zero trade balance or actually a surplus of some proportions.

Senator Long. I think we have got to tell some of these countries, and Japan is certainly one of them; and I hope to some extent it is being done right now by Secretary Baker and others. In due course, we are not going to be negotiating. We will be saying, "This is how we are going to have to do this. Now, if you want to cooperate with us, it will work out a lot easier and more to the advantage to your people than if you don't cooperate with us because we can't keep this up." If you are willing to just fall over a cliff, you are really an idiot just to keep on falling; you ought to take corrective action before it is too late. Did you want to say something, Mr. Pearce?

Mr. Pearce. May I speak to that just for a moment, Mr. Chairman? I was in a conference—actually part of a continuing conference with Japanese business for several years—that met last week in Tokyo for 3 days. I must say I was struck by the change in attitude that I see among Japanese business people. The impact of Prime Minister Nakasone's action program and the MOSS talks, but most importantly, the change in the exchange rates and the attention given the Mayakawa report have fundamentally changed the way they are looking at their relationships with the United States and others. We issued a communique at the end of that meeting which will be published, which supported an agenda for trade negotiations, which is just as broad as the one we have proposed here. That group endorsed the kind of structural changes in the Japanese economy that are necessary to alter its export orientation. As Mr. Fox observed, they have already detected a decline in the volume of their exports. The J-curve effect of the exchange rates still is increasing the value of their trade surplus, but they confidently believe that it will not in another year.

I say that because I think the focus really has to change on this issue of exchange rates to countries whose currencies haven't been adjusted in that process. There was discussion in the Tokyo meeting of the need for a G-2, that is a combined effort by Japan and the United States to encourage exchange rate adjustments affecting currencies like the German mark and the Canadian dollar.

The Chairman. Gentlemen, thank you very much. Now, if we can conclude with Mr. Galvin, Mr. Foveaux, Mr. Patterson, and Mr. O'Connell. Mr. Galvin, go right ahead.

STATEMENT OF JAMES J. GALVIN, CHAIRMAN OF THE BOARD, PHOSPHATE ROCK EXPORT ASSOCIATION, TAMPA, FL, ON BEHALF OF THE FERTILIZER INSTITUTE

Mr. **Galvin**. Thank you, Mr. Chairman. I am Jim Galvin. I am chairman of the board of the Phosphate Rock Export Association. I am here on behalf of the Fertilizer Institute.

The institute represents a broad spectrum of U.S. fertilizer producers, including everybody involved in exports. Fertilizer production in our country is a major industry, as I am sure you know, with assets in excess of $10 billion. Sixty percent of this investment is privately held. The balance is owned by farmer cooperatives. Nearly 50 percent of our production goes into export. What we urgently request is support for inclusion of language in the bills now before your subcommittee—and this is set out in the bottom of my summary statement—requesting that fertilizer is negotiated per se and not as a part of the negotiations on a vast array of chemicals. We seek direction to our negotiators to demand that, where the United States admits products duty free, such as fertilizers, that other nations do likewise when our fertilizer is shipped to them.

To illustrate the magnitude of our problem, we exported in excess of $3 billion of fertilizers last year, ending June 30, 1985, on which other nations imposed nearly 200 million dollars' worth of tariffs. At the same time, we imported 1.7 billion dollars' worth of similar fertilizers from many other nations, and that was totally duty free.

In addition to these unfair tariffs, we are encountering some fierce competition from government-owned production in such countries as Morocco, Jordan, the so-called Third World. They have embarked upon tremendous expansion of their fertilizer industry, in large part financed by the World Bank and our own Eximbank, a classic example of shooting ourselves in the foot. No wonder that our exports are down 25 percent this year.

The EEC, for example, imposes tariffs on U.S. phosphates entering the Community, but there is no tariff on the identical products coming from the Third World. The EEC is not alone in imposing tariffs. Other nations, such as Pakistan, South Korea, India, Brazil, all have tariff barriers against United States fertilizers. So, soft demand, tariff barriers, subsidized competition have shut down half of our industry. This is a tragedy for those thousands of workers who are without employment.

Mr. Chairman, I am not talking about an obsolete industry. Our technology is second to none in the world, and our production costs are also competitive; but you can't sell $150-per-ton fertilizer in Europe against $150-per-ton fertilizer from Morocco when we have to pay 10 percent or $15 in tariff. It is easy to see who gets the business.

All we are asking for is the same treatment that we give foreign fertilizer producers when they deal with us.

Thank you.

The **Chairman**. Thank you. Mr. Foveaux. And Mr. Foveaux, I have a series of questions for you from Senator Long, and he would appreciate your answering them.

[The prepared written statement of Mr. Galvin follows:]

Statement of
James J. Galvin, Chairman of the Board
Phosphate Rock Export Association
on behalf of

THE FERTILIZER INSTITUTE

before the Senate Finance Committee
on S. 1860, The Trade Enhancement Act

July 23, 1986

Mr. Chairman, I am Jim Galvin, the Chairman of the Board of the Phosphate Rock Export Association, based in Tampa, Florida. I am testifying today on behalf of The Fertilizer Institute, a non-profit trade association of the fertilizer industry and represents, by voluntary membership, more than 90 percent of the nation's fertilizer industry. Producers, manufacturers, retailers, trading firms, and equipment manufacturers who comprise its membership are served by a full-time Washington, D.C. staff in various legislative, educational and technical areas, as well as with information and public relations programs.

The Phosphate Rock Export Association (also known as PhosRock) is a Webb-Pomerene association incorporated on July 1, 1970. It is solely engaged in the export trade of phosphate rock for benefit of member companies. It's members must be U.S. producers of phosphate rock. PhosRock's eight member companies have a combined phosphate rock capacity of approximately 40 million tons per annually.

The elimination of non-tariff barriers have been identified as a top priority in the next round of Multilateral Trade Negotiations (MTN). However, there also should be a substantial effort to reduce tariffs especially on U.S. exports for those products entering the U.S. duty free. In this connection, tariff reductions on an individual industry basis, or on a sectorial basis, would be much more effective than resorting to a formula cut basis.

Therefore, The Fertilizer Institute respectfully requests that in considering S. 1860, the Trade Enhancement Act, the Senate Finance Committee include the following requirements for U.S. trade negotiations:

> "U.S. trade negotiators should seek reduction of tariffs on a product-by-product basis rather than using a formula applied broadly to all products. Additionally, the U.S. will insist on a priority for reduction or elimination of tariffs for groups of products entering the U.S. duty free but which face tariffs imposed by other importing countries."

Mr. Chairman, we were very encouraged to see that Ambassador Clayton Yeutter had also recognized this critical area in his May 14, 1986, testimony before the Subcommittee on International Trade. In Ambassador Yeutter's testimony regarding a preliminary statement of the Administration's negotiating objectives for the United States in the new MTN round, he stated, on page 12, the following:

> "Although tariffs will not be a centerpiece of the new round as in previous rounds, our private sector

> advisors have already begun to identify a number of areas where tariffs remain a significant barrier to trade -- in such diverse areas as carpeting, ferrous and non-ferrous metals, furniture, chemicals, paper and telecommunications, as well as unbound developing country tariffs. We intend to pursue our tariff objectives, based on an exchange of requests rather than the formula-cut pattern of previous rounds, in areas where high tariffs remain a significant impediment to trade."

In addition, Senator Paula Hawkins sent a letter to Senator Danforth, dated May 13, 1986, regarding the importance of this issue to the state of Florida. Mr. Chairman, I respectfully request that Senator Hawkins' letter be made part of the hearing record.

Importance of Exports to U.S. Fertilizer Industry

The United States fertilizer industry generates sales of approximately $8-9 billion per year, about 40 percent of which is in exports. The industry supports a large employment base within the U.S., and impacts many sectors of the U.S. economy, including the consumer food supply. The industry is currently very concerned about unfair trade practices, import quotas, and import duties, all of which take a financial toll on U.S. exporters and threaten the future health of fertilizer manufacturers in the U.S.

The U.S. industry exported fertilizers with a total value of $3.1 billion at U.S. port in the twelve months ending June 30, 1985. Fertilizer exports from the U.S. grew rapidly in the 1970's, doubling between 1975 and 1980. Exports for the year ending June 30, 1981, were at record levels for U.S. producers. During that year, products valued at $3.2 billion were exported, including more than one billion dollars worth of ammonium phosphates. Tonnage of finished fertilizers exported in 1981 were 30 million, with 14 million tons of phosphate rock. Total export value dropped in 1982 and 1983 due primarily to world economic conditions. A modest recovery began in 1984 and continued into 1985, when total value again exceeded $3 billion.

Ammonium phosphate, which is an important fertilizer intermediate, and phosphate rock are the largest dollar volume fertilizer products exported. The capacity to export phosphate rock, which is an important fertilizer raw material, was developed first, using the abundant reserves in the state of Florida. Later, as more upgrading capacity became available, the industry shifted more to exporting of value-added products in the form of ammonium phosphates and other phosphate fertilizer products.

The export value of diammonium phosphate, the most popular ammonium phosphate product, reached one billion dollars in 1981 and has stayed near that level in each year since. The record year for exports of diammonium phosphate was 1985, with a total export value of $1.3 billion. Other individual products, including phosphoric acid, nitrogen fertilizers such as anhydrous ammonia and urea, and potassium chloride provided smaller but significant contributions to the total export value.

TABLE I

U.S. Fertilizer Exports
Year Ending June 30, 1985

Product	Value of Exports $ millions
Diammonium Phosphate	1,277.3
Phosphate Rock	370.1
Urea	208.1
Concentrated Superphosphate	185.4
All Products	3,079.0

Country	Value of Exports $ millions
India	450.6
China	275.2
Canada	263.0
Belgium-Luxembourg	224.2
USSR	208.9
World Total	3,079.0

The U.S. is a world leader in both production and consumption of fertilizers. In 1985, approximately 35 million metric tons of fertilizer phosphate expressed as P_2O_5 were produced worldwide, and 34 million were consumed. Of these totals, the U.S. produced 23 percent and consumed 12 percent. In the same year (1985), approximately 75 million tons of nitrogen (N) were produced and 70 million consumed in the world, with the U.S. producing 17 percent and consuming 15 percent of these totals. The U.S. also contributes to the world's needs for potash, which is the third major plant nutrient, producing 5 percent and consuming 19 percent of the world totals in 1985.

We were pleased to note that Ambassador Yeutter recognized in his testimony how critically important exports are to the economic health of the phosphate fertilizer industry. He stated, on page 1, the following:

> "Moreover, despite the stagnation in recent years, exports continue to be more important to the U.S. economy than in past decades. Exports as a share of production in goods-producing industries accounted for 12.2 percent in 1972; 25.2 percent in 1980; and 19.3 percent in 1984. Exports are critically important for many U.S. sectors, accounting for over one-fourth of total shipments in industries such as construction machinery, aircraft equipment, semiconductors and related products, general industrial machinery, oil field machinery, phosphate fertilizer, industrial inorganic chemicals, electronic computing equipment and instruments to measure electricity. Some sectors of U.S. industry, despite recent slumps, have experienced dynamic export growth rates, averaging ten percent annual growth over the period 1980 to 1984. Examples include electronic computing equipment, petroleum refining equipment, semiconductors and aircraft engines and parts."

When we consider that the U.S. industry represents up to 25 percent of the total world potential for production and consumption of key fertilizer products, the industry's concern over unfair trade practices and other barriers to efficient allocation of the world's resources becomes clear. If we assume that only fertilizer production which is in excess of a country's domestic consumption needs is available for export, the U.S. industry represented 44 percent of world export potential in 1985. Despite the dependence of many countries on plant food exports from the U.S., the industry is now subject to a variety of problems in international trade.

Cost of Tariffs to the U.S. Fertilizer Industry

Import tariffs charged in fertilizer products exported from the U.S. are costing the U.S. industry $150-200 million per year, based on calculations using published tariff tables provided by the U.S. Department of Commerce (USDC). The import tariffs, which represent cost, or lost value, to U.S. fertilizer producers, range from 4 percent to 100 percent of declared value including freight, depending on the product.

TABLE II

Country	Range of Tariffs (percent)	Calculated Tariff Cost to U.S. Exporters FY '85 ($ million)
EC	4 - 13	16.6
Far East		
Pakistan	6 - 85	37.5
South Korea	5 - 25	19.5
India	0 - 60	10.2
Taiwan	5 - 25	7.1
Philippines	10 - 20	2.3

TABLE II
(Continued)

Country	Range of Tariffs (percent)	Calculated Tariff Cost to U.S. Exporters FY '85 ($ million)
South America		
Brazil	10 - 80	20.5
Chile	20	6.2
Venezuela	1 - 100	3.4
Mexico	40	3.0
World Total		
(includes countries not listed above)		148.9

The U.S. does not impose import tariffs on fertilizer products from any country and has not since 1922. Many countries which impose heavy tariffs on fertilizer imports from the U.S. enjoy duty-free access to markets in the U.S. Fertilizer producers in these countries, often operating with direct or indirect government subsidies, are free to compete with U.S. producers for U.S. domestic markets, while penalizing U.S. product entering their own borders.

Mr. Chairman, we respectfully request that the Department of Commerce chart entitled, "Published Duties on Fertilizer and Fertilizer Materials" be included in the hearing record.

Additionally, we ask that an exchange of correspondence between Mr. Gary D. Myers, the President of The Fertilizer Institute, Secretary of Commerce Malcolm Baldrige, and Ambassador Yeutter on the tariff situation also be included in the hearing record.

In addition to tariff barriers on fertilizer imports, which tend to eliminate trade potential in some regions, the U.S. industry also is subject to a variety of non-tariff barriers. These non-tariff barriers to free trade include import quotas and product specification requirements.

Product specifications are being used increasingly as an impediment to free trade and as a potential tool for discrimination against U.S. producers. A recent well-publicized case against the European Community (EC) demonstrated that requirements for water solubility in concentrated superphosphate being imported into the EC could be used to discriminate against American product in favor of North African material. Other product standards, such as those for chlorine and biuret content, have been used in a discriminatory manner.

Import quotas also impede fertilizer trade. A recent quota on imports of ammonium phosphates into the EC was imposed as a retaliation to something totally unrelated to fertilizer trade, and yet will result in about 30-35 percent reduction in imports of these products to that region from the U.S.

The United States has not imposed tariffs on fertilizer imports since 1922; fertilizers from any source are imported duty free. And yet, as a large volume shipper of phosphate and nitrogen fertilizers, we are subject to large import tariffs on products we export. The United States in its trade negotiations, should insist on reciprocity in trade practices. If the export products of a country enter the U.S. duty free, that country should permit U.S. products to enter duty free also.

United States Senate
WASHINGTON, DC 20510

May 13, 1986

The Honorable John C. Danforth
497 Senate Russell Building
Washington, D.C. 20510

Dear John:

As your Subcommittee on International Trade begins consideration of the Omnibus Trade bill, I hope you will be able to focus some attention on the inequitable tariff disparity faced by Florida's phosphate producers in the international market.

Since 1922, fertilizer from around the world, regardless of country, has entered the U.S. duty-free. However, U.S. fertilizer faces an array of tariffs imposed by many importing countries. In the year ending June 30, 1985, data from the Department of Commerce show that U.S. fertilizer companies pay approximately $200 million in tariffs imposed by importing countries around the world. With 50 percent of the U.S. phosphate production exported, mainly from Florida, producers in my state must absorb over half this cost.

I believe this inequity in trade law could be remedied by U.S. negotiators in the next Multilateral Trade Negotiations if given direction by the U.S. Congress. Therefore, I request that the Subcommittee on International Trade consider including the following language in the new trade bill to be used as a major objective of the next MTN:

> U.S. trade negotiators should seek reduction of tariffs on a product-by-product basis rather than using a formula applied broadly to all products. Additionally, the U.S. will insist on a priority for reduction or elimination of tariffs for groups of products entering the U.S. duty free but which face tariffs imposed by other importing countries.

I appreciate the Subcommittee's consideration of my request.

Sincerely,

Paula Hawkins

Paula Hawkins

PH:jb/lcg

TABLE 20

1984

PUBLISHED DUTIES ON FERTILIZER AND FERTILIZER MATERIALS (CIF), % Ad Valorem, Unless Otherwise Specified 1/

	28.10	31.02	31.02	31.02	31.02	31.02	25.10	28.10	31.03	31.03	31.05	31.05	31.04	31.04	31.05
	Anhydrous Ammonia	Ammonium Sulfate	Ammonium Nitrate	Urea 45%	Nitrogen Solutions	Nitrogen Fertilizer NEC	Phosphate Rock	Phosphoric Acid	Triple Super-phosphate	Normal Super-phosphate	Diammonium Phosphate	Other Ammonium Phosphates	Potassium Chloride	Potassium Sulfate	Mixed Fertilizer (All 3 Nutrients)
NORTH AMERICA															
Mexico 2/	40	---	---	---	---	---	---	40	---	---	---	---	---	---	---
CENTRAL AMERICA AND ISLANDS															
Bahamas	32.5	---	---	---	---	---	32.5	32.5	---	---	---	---	---	---	---
CARICOM 3/	30	30	5	---	---	---	---	---	---	---	---	---	---	---	---
Cayman Islands	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20
Dominican Republic 4/	20	---	---	---	---	---	25	25	---	---	---	---	---	---	---
Fr. Guiana, Fr. W. Indies 5/	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5
Netherland Antilles	4.5	---	---	---	---	---	4.5	4.5	---	---	---	---	---	---	---
Turks and Caicos Islands	25	---	---	---	---	---	---	---	---	---	---	---	---	---	---
SOUTH AMERICA															
Argentina 6/	23	20	---	20	20	20	10	40	---	---	---	---	---	---	29
Bolivia 7/	---	---	---	---	---	---	10	10	---	---	---	---	---	---	---
Brazil 8/	45	10	---	15	---	---	30	30 - 45	40	40	80	80	---	---	80
Chile 9/	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20
Colombia 10/	25	1	1	1	1	1	10	25	1	1	1	1	1	1	5
Ecuador 11/	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Paraguay 12/	50	30	30	30	30	30	30	37	30	30	30	30	30	30	30
Uruguay 13/	20	20	20	20	20	20	10, 45, 65	10	45	45	45	20	20	20	20
Venezuela 14/	100	1	1	1	1	1	30	15	1	1	1	1	1	1	10
EUROPE															
EEC 15/	11.1	8	8	11.7	8	8	---	13.2	4.8	4.8	6.6	6.6	---	---	3.2
Greece 16/	11.1	8	8	11.7	8	8	---	13.2	6.4	6.4	6.6	6.6	---	---	3.7
Portugal	11.2	24	24	---	22	22	---	13.2	4.8	4.8	1.8	1.8	1	1	15
Spain	15	10	10	17.5	15	15	0.3	18	10	1	15	15	---	8	15
Sweden 17/	10.5	2.4	3.1	9.5	9.1	9.5	---	4.3	---	---	4.2	4.2	---	---	7.7
Turkey	40	30	30	30	30	30	10	10	15	15	22	22	15	15	22
Yugoslavia	8	8	8	8	8	8	---	8	8	8	8	8	---	---	8
AFRICA, NEAR EAST, SOUTH ASIA															
Africa															
Algeria	37.5	---	---	---	---	---	56.25	37.5	---	---	---	---	---	---	---
Angola	10	12	12	5	---	---	25	10	---	---	---	---	---	---	---
Benin 18/	50	15	15	15	15	15	33	50	15	15	15	15	15	15	15
Botswana 19/	19/	15	---	15	---	---	---	15	15	15	15	15	---	---	15
Burundi	15	5	5	5	5	5	10	15	5	5	5	5	5	5	5
Cameroon	40	7.5	7.5	5	7.5	7.5	40	40	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Cape Verdi Islands	40	3	3	3	3	3	3	40	3	3	3	3	3	3	3
Central African Republic	40	7.5	7.5	5	7.5	7.5	40	40	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Congo	40	7.5	7.5	5	7.5	7.5	40	40	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Egypt 20/	5	---	---	---	---	---	20	5	---	---	---	---	---	---	---
Gabon	45	7.5	7.5	5	7.5	7.5	45	45	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Ghana 21/	35	---	---	---	---	---	35	35	---	---	---	---	---	---	---
Guinea 22/	40	25	25	25	25	25	75	25	25	25	25	25	25	25	25
Guinea Bissau	23	---	---	---	---	---	8	33	33	33	33	33	---	---	33
Ivory Coast	30.5	12.5	12.5	16.5	16.5	16.5	12.5	16.5	16.5	16.5	16.5	16.5	12.5	12.5	16.5
Kenya	30	---	---	---	---	---	---	30	---	---	---	---	---	---	---
Lesotho 19/	19/	15	---	15	---	---	---	15	15	15	15	15	---	---	15
Liberia	15	---	---	---	---	---	10	15	---	---	---	---	---	---	---
Libya	---	---	---	---	---	---	20	---	---	---	---	---	---	---	---
Mauritania 23/	15	---	---	---	---	---	15	15	---	---	---	---	---	---	---
Morocco	20	---	---	---	---	---	10	20	---	---	---	---	---	---	---
Mozambique	10	12	12	---	---	---	---	8	12	12	1.8	1.8	---	---	1.8
Namibia 19/	19/	15	---	15	---	---	---	15	15	15	15	15	---	---	15
Nigeria	10	---	---	---	---	---	---	10	---	---	---	---	---	---	---
Rwanda	15	---	---	---	---	---	15	15	---	---	---	---	---	---	---
Senegal 24/	20	---	---	---	---	---	20	20	---	---	---	---	---	---	---
Sierra Leone	15	---	---	---	---	---	10	15	---	---	---	---	---	---	---
South Africa 19/	19/	15	---	15	---	---	---	15	15	15	15	15	---	---	15
Swaziland 19/	19/	15	---	15	---	---	---	15	15	15	15	15	---	---	15

1804

PUBLISHED DUTIES ON FERTILIZER AND FERTILIZER MATERIALS (CIF), % Ad Valorem, Unless Otherwise Specified 1/

	28.16 Anhydrous Ammonia	31.02 Ammonium Sulfate	31.02 Ammonium Nitrate	31.02 Urea 46%	31.02 Nitrogen Solutions	31.02 Nitrogen Fertilizer NEC	25.10 Phosphate Rock	28.10 Phosphoric Acid	31.03 Triple Super-phosphate	31.03 Normal Super-phosphate	31.05 Diammonium Phosphate	31.05 Other Ammonium Phosphates	31.04 Potassium Chloride	31.04 Potassium Sulfate	31.05 Mixed Fertilizer (All 3 Nutrients)
Togo	20	—	—	—	—	—	20	20	—	—	—	—	—	—	—
Tunisia	8	13	13	13	13	13	8	13	—	—	13	13	—	—	13
Zaire	10	—	—	—	—	—	16	10	—	—	—	—	—	—	—
Zimbabwe 25/	—	—	—	—	—	—	25/	25/	25/	25/	25/	25/	—	—	—
Near East and South Asia															
Bahrain	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Indonesia 26/	2.5	—	—	—	—	—	—	2.5	—	—	—	—	—	—	—
India 27/	0	—	60	0	60	60	—	15	0	0	0	0	0	—	—
Israel 28/	—	—	—	—	—	—	8	—	12	12	12	12	—	—	—
Jordan	4	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Kuwait	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Lebanon 29/	—	—	—	—	—	—	—	—	11	11	—	—	—	—	—
Malaysia 30/	3	6	—	—	—	—	—	—	—	—	—	—	—	—	6
Oman 31/	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Pakistan 32/	65	—	60	60	6	60	—	40	60	60	60	60	60	—	—
Qatar	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
South Yemen	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Syria 33/	33/	1	1	1	1	1	7	1	1	1	1	1	1	1	1
Thailand	30	—	—	—	—	—	30	30	—	—	—	—	—	—	—
UNITED ARAB EMIRATES															
Abu Dhabi	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Dubai	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Yemen Arab Republic	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
EAST ASIA AND PACIFIC															
Japan	3.9	—	—	—	—	—	—	6.3	—	—	—	—	—	—	—
Philippines 34/	10	20	20	20	20	20	10	10	20	20	20	20	10	10	20
South Korea 35/	20	20	20	20	20	20	10	25	20	20	20	20	5	5	20
Taiwan 36/	20	20	20	20	20	20	5	25	5	5	5	5	—	—	5

1/ Where there is no duty, a dash (—) is used.
2/ [illegible]
3/ [illegible]
4/ [illegible]
5/ [illegible]
6/ [illegible]
7/ [illegible]
8/ [illegible]
9/ [illegible]
10/ [illegible]
11/ [illegible]
12/ [illegible]
13/ [illegible]
14/ [illegible]
15/ [illegible]
16/ [illegible]
17/ [illegible]
18/ [illegible]
19/ [illegible]

20/ [illegible]
21/ [illegible]
22/ [illegible]
23/ [illegible]
24/ [illegible]
25/ Zimbabwe: [illegible]
26/ Indonesia: [illegible]
27/ India: [illegible]
28/ Israel: [illegible]
29/ Lebanon: [illegible]
30/ Malaysia: [illegible]
31/ Oman: [illegible]
32/ Pakistan: [illegible]
33/ Syria: [illegible]
34/ Philippines: [illegible]
35/ South Korea: [illegible]
36/ Taiwan: [illegible]

- Most countries to which the U.S. exports fertilizers impose tariffs as an ad valorem tax on both the cost of the product and its freight. Exceptions to this are few, including Canada and the U.S.S.R.
- All fertilizers from any country come into the U.S. duty free.

F. P. Maxey
Economic Affairs/BIE
Department of Commerce
Washington, D.C. 20230
PH: 202–377–0128

THE FERTILIZER INSTITUTE
1015 18th Street, N.W.
Washington, D.C. 20036

(202) 861-4900
Telex: 89-2699

GARY D. MYERS
President

January 31, 1986

The Honorable Malcolm Baldrige
Secretary
Room 5851
U.S. Department of Commerce
14th Street between Constitution Avenue
  and E Street, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

During the past several years The Fertilizer Institute has brought to the attention of the Department of Commerce and to the U.S. Trade Representative the disadvantage U.S. exporters of fertilizers suffer with tariffs imposed by a variety of countries while the same products enter the U.S. duty free.

Using information published by the Department of Commerce, we have prepared the enclosed estimate of the economic impact of tariffs applied to U.S. fertilizer exports in the year ending June 30, 1985. The calculated cost to the U.S. fertilizer industry of $200 million in a single year is indeed a significant part of our total exports for that year, $3.1 billion, FAS.

This information is very substantial evidence why the U.S. government should seek an elimination of tariffs on this group of products entering the U.S. duty-free, and, particularly, as the U.S. prepares for a new MTN round.

Sincerely,

Gary D. Myers

Gary D. Myers

GDM/pcl
Enclosure

cc: Mike Kelley, DAS, Basic Industries
M. Alan Woods, Deputy U.S. Trade Representative
TFI Trade Committee

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

FEB 10 1986

Mr. Gary D. Myers
President
The Fertilizer Institute
1015 18th Street N.W.
Washington, D.C. 20036

Dear Gary,

Secretary Baldrige has requested that I respond to your letter of January 31, 1986. We agree with your assessment of the imbalance of duties faced by U.S. fertilizer producers in foreign countries whose own producers pay no duties shipping into the United States. And we concur with your supporting data.

Your suggestion will be part of our presentation with the new round of MTN beginning in late 1986 or early 1987. You are probably aware that the MTN is a top Administration priority.

We will be establishing a computer information system as one of our first activities. Recommendations you have made will be incorporated into the data and will serve as input along with other timely and readily-accessible industry advice.

Our intentions are to work very closely with USTR; we will therefore have the opportunity to reflect your views. Your letter is timely and we will work with you on this important new round.

We will keep you informed of the progress, personally and through our ISAC. We look forward to additional inputs and suggestions.

Sincerely,

Michael T. Kelley
Deputy Assistant Secretary
for Basic Industries

tfi
THE FERTILIZER INSTITUTE
1015 18th Street, N.W.
Washington, D.C. 20036

(202) 861-4900
Telex: 89-2699

GARY D. MYERS
President

January 31, 1986

The Honorable Clayton Yeutter
Ambassador
U.S. Trade Representative
Winder Building
Room 209
600 17th Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

During the past several years The Fertilizer Institute has brought to the attention of the Department of Commerce and to the U.S. Trade Representative the disadvantage U.S. exporters of fertilizers suffer with tariffs imposed by a variety of countries while the same products enter the U.S. duty free.

Using information published by the Department of Commerce, we have prepared the enclosed estimate of the economic impact of tariffs applied to U.S. fertilizer exports in the year ending June 30, 1985. The calculated cost to the U.S. fertilizer industry of $200 million in a single year is indeed a significant part of our total exports for that year, $3.1 billion, FAS.

This information is very substantial evidence why the U.S. government should seek an elimination of tariffs on this group of products entering the U.S. duty-free, and, particularly, as the U.S. prepares for a new MTN round.

Sincerely,

Gary D. Myers

GDM/pcl
Enclosure

cc: Mike Kelley, DAS, Basic Industries
M. Alan Woods, Deputy U.S. Trade Representative
TFI Trade Committee

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

February 26, 1986

Mr. Gary D. Myers
President
The Fertilizer Institute
1015 18th Street, N. W.
Washington, D.C. 20036

Dear Gary:

Thank you for your letter of January 31 expressing your concern with the tariff levels imposed by a number of countries on U.S. fertilizer exports. I appreciate your sending me the Fertilizer Institute's estimate of the economic impact of foreign tariffs on the domestic industry. This is just the sort of data which we can use in future trade discussions.

Tariffs are not likely to be the centerpiece of the new MTN round. We see the focus being the development of new rules for world trade. However, we do want to deal with specific areas where tariffs pose a particular problem to U.S. industry. The information you have developed may help us get the broad negotiating authority for tariffs and nontariff trade barriers we are hoping to receive from Congress.

To the extent we can advance this issue in future discussions with the countries your study identifies we will do so. I find it ironic that many of the countries imposing the highest tariffs are ones who should be doing everything in their power to keep the price of food down for their citizens. Discouraging imports of products which increase their food production hardly seems in their own best interest.

Sincerely,

Clayton Yeutter

CY:fhh

STATEMENT OF MYRON T. FOVEAUX, DEPUTY TRADE ADVISER, OFFICE OF THE CHEMICAL INDUSTRY TRADE ADVISER, WASHINGTON, DC

Mr. FOVEAUX. Yes, thank you, Mr. Chairman. This statement is made on behalf of the Office of the Chemical Industry Trade Adviser, and we call that OCITA, a coalition of the Chemical Manufacturers Association. The National Agricultural Chemical Association is a society of the plastics industry and the Synthetic Organic Chemical Manufacturers Association. Now, Mr. Dexter Baker, whom you may know, and he is president and chief operating officer of the Air Products Co., is our industry's trade advisor under OCITA, and he is not able to be here today.

My name is Myron Foveaux. I am OCITA's deputy trade adviser, and my comments are directed toward the U.S. participation in a new round of multilateral trade negotiations; and these, of course, are supported by a written statement which we have submitted for the record.

OCITA strongly urges this committee to report a trade bill containing MTN authority that includes appropriate provisions to address four major concerns of the chemical industry, and they are, one, U.S. tariff negotiation authority that includes provisions for specific product exemptions from tariff cuts for import-sensitive items and removal of unfair or excessive nontariff trade barriers abroad, and adequate GATT dispute settlement procedure, the second one; and the third, a foreign investment code; and fourth, increased protection of intellectual property rights, previously referred to here this morning. Now, the chemical and allied products industry is experiencing severe difficulty from foreign competition. The industry's largest trade surplus, $12.2 billion in 1980, has declined significantly in each succeeding year.

The 1985 surplus, last year, was $7.2 billion, a drop of 41 percent over that 5-year period. Four of thirteen categories of chemicals now have a negative trade balance.

The industry had a trade deficit with Canada for the second consecutive year and a negative trade balance with Western Europe for the first time. Trade surpluses with all other countries, including Japan, are dropping. This trade data clearly shows a worsening competition situation for the chemical industry. The emphasis in a new MTN round should be toward eliminating trade-distoring practices and to expanding U.S. export opportunities.

Tariff cutting should not be the primary objective, and chemical tariff cuts should not be offered in exchange for concessions in nonchemical sectors. U.S. tariff strategy should be based on responses to requests for tariff cuts rather than the United States making initial tariff offers. There are no concessions that can be gained in the MTN bargaining that would balance the injury done to domestic producers as a result of tariff cuts on import-sensitive products.

A tariff-cutting authority can include limitations that are reasonable and equitable without significantly reducing the President's negotiating position. OCITA legislative language will establish such a procedure for determining product import sensitivity as a basis for defining products exceptions for U.S. tariff cutting have been submitted. The U.S. International Trade Commission would be empowered by Congress to make determinations for exemptions of individual products based on information received from companies producing those articles and a finding by the USITC that such a product is import sensitive.

Thank you very much for this opportunity to appear. Of course, we will be happy to answer questions.

The CHAIRMAN. Thank you, sir. Mr. Patterson.

[The prepared written statement of Mr. Foveaux and the prepared questions of Senator Long follow:]

STATEMENT

OF

THE OFFICE OF THE CHEMICAL INDUSTRY TRADE ADVISOR

Position Statement on Multilateral Trade Negotiating Authority

The following comments on multilateral trade negotiating authority are being submitted by the Office of the Chemical Industry Trade Advisor (OCITA). OCITA is a coalition of the following U.S. chemical industry associations: the Chemical Manufacturers Association, the National Agricultural Chemicals Association, the Society of the Plastics Industry, Inc. and the Synthetic Organic Chemical Manufacturers Association, Inc. These OCITA comments are restricted to United States participation in a new Round of Multilateral Trade Negotiations (MTN) under the General Agreement on Tariffs and Trade (GATT).

If the Preparations that are underway between the United States and other GATT signatories are to enter into a new Round of MTN in an effort further to expand world trade multilaterally, OCITA supports such an objective. However, OCITA believes that a new Round should address a number of issues which are crucial to the long range competitive position of the U.S. chemical industry. The emphasis of negotiations should primarily be on efforts to eliminate existing trade barriers that unfairly restrict trade flows. These trade barriers include constraints on foreign market access, trade distorting foreign investment practices, ineffective protection of intellectual property rights, and the lack of an effective international discipline for settling disputes related to international trading rules and lastly, the reduction or elimination of certain U.S. and foreign country tariffs. OCITA urges that the following principles for U.S. participation in a new Round be adhered to on each of these issues.

U.S. NEGOTIATING POLICY

A new Round of MTN must foster the development of sound trading and investment practices. U.S. participation in a new MTN should include as priority objectives the elimination of trade distorting practices and the expansion of U.S. export opportunities. OCITA believes that the reduction of U.S. tariff rates should not be among the primary negotiating objectives for a new MTN.

The international trade interests of the United States should be given priority over foreign policy concerns in negotiating agreements during the MTN. Foreign policy concerns, other than those of a national security nature, should not affect decisions on U.S. trade policy.

Adequate and timely opportunities should be provided for U.S. chemical industry input and review during the process of establishing negotiating objectives, as well as during the negotiations themselves. Moreover, OCITA strongly urges that ample opportunity be provided for the private sector to comment, and for Congress to debate and amend any tentative agreements made in the negotiating process, before the negotiated agreements are submitted to the Congress for final approval.

MTN authority should not restrict the President from conducting separate trade negotiations with other countries during the course of an MTN. In addition, the Administration should not impair the implementation and timely aggressive resolution of actions brought under existing U.S. trade remedy laws during the course of MTN negotiations.

GATT DISPUTE SETTLEMENT PROCEDURES

OCITA believes that the GATT dispute settlement procedures must be improved to include binding, time-certain requirements for the resolution of disagreements on issues covered by GATT rules. Resolution of disputes already taken to GATT should be the first step in this process.

FOREIGN MARKET ACCESS

OCITA maintains that GATT signatory countries should be required to grant U.S. exporters fair access to their markets without unreasonable barriers or conditions, in exchange for their retaining relatively free access to U.S. markets.

TARIFF NEGOTIATIONS

The emphasis of a new Round should not be on tariff cutting. The reduction or even the elimination of tariffs on certain chemical products may be appropriate, while reductions of tariffs on certain other chemical products may impose an undue burden on U.S. manufacturers. We urge, therefore, that any reductions which are proposed be well-justified, modest, and phased in over an appropriate period of time.

In the interest of reaching a balanced and equitable trade and tariff agreement, the United States should negotiate changes in chemical tariffs only on the basis of request lists, rather than imposing formula cuts across the board or automatically eliminating tariffs below certain levels. Also, reduction or elimination of chemical tariffs should not be offered in exchange for concessions in non-chemical sectors. Moreover, OCITA urges that any U.S. plan to reduce or eliminate tariffs should include provisions enabling affected industries to obtain exceptions for import sensitive products. We believe that these conditions should be included in any legislation authorizing U.S. participation in the MTN and, specifically, in legislative language providing tariff negotiating authority for a new MTN Round. (OCITA's proposed legislative language in attachment to this statement provides for negotiating authority either as an amendment to Section 101 of the Trade Act of 1974 (Attachment A) or as an amendment to Section 102 of the Trade Act of 1974. (Attachment B))

In this regard, OCITA has drafted proposed legislative language which would accomplish three negotiation objectives: 1) ensure tariff reciprocity within industry sectors to the maximum extent possible; 2) ensure that the President will conduct tariff negotiations on the basis of article specific requests and offers, not formulas for across-the-board tariff reductions; and 3) provide exemptions from tariff cuts for import sensitive items. As defined in the legislative language concerning the last objective, the OCITA proposed legislative language (Attachment C) would amend sections in Title I of the Trade Act of 1974, to:

1) Require the U.S. International Trade Commission (USITC) to determine whether a duty reduction on an article the President wishes to negotiate will seriously injure domestic producers of a directly competitive article (The USITC will make such a determination only if it has reason to believe such injury will occur or a domestic company files a petition alleging that it will occur);

2) Require a public USITC hearing in this investigation;
3) Prohibit the President from implementing a duty reduction the USITC determines will seriously injure the domestic industry, unless he determines such a reduction is in the national security interest;
4) Require the President to make a public explanation for overriding any USITC injury determination; and
5) Prohibit the President from including a duty reduction in a fast track trade agreement implementing bill if the USITC determines the reduction will seriously injure domestic industry, and the President does not override that determination.

OCITA drafted this language as an amendment to S. 1860. The OCITA legislative language could, of course, be easily adapted to amend any other pending trade legislation, or it could be introduced independently. We urge the Committee to include the concepts contained in this OCITA proposal in its trade reform bill.

FOREIGN INVESTMENT PRACTICES

OCITA believes that a GATT code on foreign investment practices should be negotiated among the signatory countries. Such a code should be based on national treatment for foreign investments and should ensure the elimination or substantial reduction of trade-distorting foreign investment practices, including:

1) Prohibitions or restrictions on foreign investment in certain economic sectors, such as chemicals;

2) Screening of foreign investment proposals by government agencies and limitations on the amounts and percentages of equity that can be owned by foreigners;

3) Performance requirements, including mandated local purchase of equipment, supplies, and services, and the share of production which must be dedicated to exports;

4) Limitations on royalties and licensing; and

5) Limitations on repatriation of earnings.

INTELLECTUAL PROPERTY RIGHTS

Finally, OCITA strongly urges that U.S. negotiators seek binding commitments from foreign governments that inadequate intellectual property laws will not be used to distort international trade. As part of these commitments, agreements should be negotiated not only to improve the protection afforded patents, trademarks, and copyrights, but also to improve the protection afforded in practice to proprietary or confidential information and trade secrets, so that foreign nationals operating in other countries may exercise and obtain enforcement of their intellectual property rights in those countries.

The Office of the Chemical Industry Trade Advisor appreciates the opportunity to comment on this most important subject. If there are any questions on these comments, please contact either K. James O'Connor, Jr. (202/887-1130) or Gabrielle H. Williamson (202/887-1356), at the Chemical Manufacturers Association.

Attachment A

AMENDMENT

To S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote United States exports, and for other purposes.

Viz: On page 64, after line 26, add the following new section:

SEC. 406. TARIFF NEGOTIATIONS.

Section 101 of the Trade Act of 1974 (19 U.S.C. 2111) is amended by adding at the end thereof the following new subsection:

"(d) If the President enters into tariff negotiations under section 102 of this Act, as amended by section 402 of the Trade Enhancement Act, then the President shall--

"(1) conduct such negotiations on the basis of requests and offers for changes in the rates of duty on specific articles and shall not negotiate on the basis of any formula for the reduction or elimination of duties on more than one article, and

"(2) conduct such negotiations with the objective of obtaining comparable tariff levels within manufacturing sectors.

"The President shall not enter into negotiations under section 102 solely to negotiate tariff levels.";

On page 65, line 1, strike out "SEC. 406." and insert in lieu thereof "SEC. 407.".

Points For Inclusion In Report Language

1. In making its determinations of import sensitivity under revised section 131 of the Trade Act, the USITC should attempt to define the scope of the domestic industry on the basis of economic reality. In particular, the scope of a particular TSUSA item number should not be the primary determinant of the scope of the relevant domestic industry.

(Other points may be provided later where necessary.)

Attachment B

AMENDMENT

To S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote United States exports, and for other purposes.

Viz: On page 58, after line 13, add the following new subsection and renumber accordingly:

"(h) If the President enteres into tariff negotiations under this Section, the President shall--

"(1) conduct such negotiations on the basis of requests and offers for changes in the rates of duty on specific articles and shall not negotiate on the basis of any formula for the reduction or elimination of duties on more than one article, and

"(2) conduct such negotiations with the objective of obtaining comparable tariff levels within manufacturing sectors.

Attachment C

AMENDMENT

To S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote United States exports, and for other purposes.

Viz: On page 55, line 7, strike out "or";

On page 55, line 13, strike out the period and insert in lieu thereof a comma and "or";

On page 55, between lines 13 and 14, insert the following:

"(C) such bill approves any trade agreement, or contains provisions changing existing laws or adding new statutory authority, to reduce the duty on any article which is import sensitive within the meaning of section 134.";

On page 64, after line 26, insert the following new section:

SEC. 406. EXCLUSION OF IMPORT SENSITIVE ARTICLES FROM TARIFF NEGOTIATIONS.

(a) USITC Determination.--Section 131 of the Trade Act of 1974 (19 USC 2151) (relating to International Trade Commission advice) is amended by--

(1) inserting "AND DETERMINATIONS" after "ADVICE" in the caption thereof;

(2) striking out "Within" in subsection (b) and inserting in lieu thereof "(1) Within";

(3) adding at the end of subsection (b)(1), as redesignated by paragraph (2) of this subsection, the following new paragraph:

"(2) Upon receipt of a list described in paragraph (1), if (A) the Commission has reason to believe that the domestic industry producing an article that is directly competitive with any article on such list would be seriously injured by reason of increased imports of that article, or (B) a domestic producer of an article that is directly competitive with any article on such list files a petition with the Commission alleging that the domestic industry producing such article would be seriously injured by reason of increased imports of that article, then the Commission shall immediately initiate an investigation to determine whether the domestic industry producing such directly competitive article would be seriously injured by reason of increased imports of that article. The Commission shall report its determinations on the basis of such investigations to the President together with its advice under paragraph (1) of this subsection.";

(4) redesignating subsection (e) as subsection (f);

(5) inserting after subsection (d) the following new subsection (e):

"(e) In making its injury determinations, the Commission shall consider, among other factors--

"(1) the volume of imports of the article which is the subject of investigation;

"(2) the effect of imports of that article on prices in the United States for directly competitive articles, and

"(3) the impact of imports of such article on domestic producers of directly competitive articles.

(6) inserting in subsection (f), as redesignated by paragraph (4), immediately after "advice to" a comma and "and in making its determinations for,".

(b) Presidential Determination.--Section 134 of the Trade Act of 1974 (19 USC 2154) (relating to prerequisites for offers) is amended by--

(1) striking out "advice concerning such article" in the last sentence thereof and inserting in lieu thereof the following: "advice and the determination, if any, concerning such article"; and

(2) adding at the end thereof the following new sentences: "Any article with respect to which the Commission makes an affirmative determination under section 131(b)(2) shall be considered to be 'import sensitive' for purposes of this Title unless the President determines to override such affirmative determination in the national security interest of the United States and (A) reports in writing the specific reasons for his determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and (B) publishes notice of his determination with an explanation of the reasons therefor. The President shall not make any offer with respect to the rate of duty on an import sensitive article.";

On page 65, line 1, strike out "SEC. 406." and insert in lieu thereof "SEC. 407.".

STATEMENT OF RICHARD M. PATTERSON, MANAGER, GOVERNMENT RELATIONS, DOW CHEMICAL, USA, WASHINGTON, DC, ON BEHALF OF THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION, INC.

Mr. PATTERSON. Thank you, Senator Packwood. I am Richard Patterson, government relations manager for Dow Chemical, USA. I am here today to testify on behalf of the Synthetic Organic Chemical Manufacturers Association [SOCMA] of which Dow Chemical is a member company.

SOCMA is a nonprofit trade organization association representing over 100 organic chemical companies, the majority of which have annual chemical sales under $50 million. Dow Chemical, like other SOCMA member companies, is a producer of synthetic organic chemicals, which are primarily intermediates and finished chemicals for industrial use.

This new round of MTN's must succeed where earlier MTN's have failed. But given the past track record, there needs to be closer oversight on the negotiations by the Congress than in the past to achieve truly effective and balanced agreement.

The traditional blank-check authority for providing tariff cuts does not give that needed oversight. SOCMA supports granting the administration an extension of its existing section 102 authority to negotiate multilateral trade agreements. However, it urges that the following five points be addressed in legislation authorizing a new round of MTN's. The emphasis in the new round should not be on tariff cutting, but rather on efforts to eliminate or reduce significant nontariff barriers to trade. These include restrictions on access to foreign markets by the use of import licensing schemes, restrictions on foreign investment, and ineffective protection of intellectual property rights. Unless progress is made on those issues, we would give up much more than we can gain in tariff negotiating. To ensure that this new round does focus on nontariff issues, the President should be granted limited tariff negotiating authority. Senate bills S. 1865 and S. 1867 should be amended to limit the tariff reductions the President could negotiate to a 25-percent cut in tariffs.

The bill should also set up a workable procedure for interested parties to seek exemptions from maximum tariff cuts for competitively disadvantaged articles. Further, any reduction or elimination of chemical tariffs should not be offered in exchange for concessions in nonchemical sectors.

Tariff negotiations should proceed on the basis of requests lists rather than imposing formula cuts across the board or automatically eliminating tariffs below certain levels. SOCMA urges the creation of an administrative process to handle duty suspension requests on chemicals imported into the United States which are not manufactured in the United States. An administrative process would eliminate the lengthy delays and uncertainty inherent in the congressional process, and it would also permit the United States to seek reciprocal benefits from our trading partners where these tariff cuts which at present are simply unilateral concessions.

My testimony can be summed up as follows. We need to move cautiously on cutting tariffs on products that we make, and we need to move expeditiously to suspend duties on those we do not. We thank you for providing SOCMA the opportunity to present its views on the aspects of the new round of MTN's.

Thank you.

The CHAIRMAN. Thank you. Mr. O'Connell.

[The prepared written statement of Mr. Patterson follows:]

TESTIMONY OF

THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

I. INTRODUCTION

The Synthetic Organic Chemical Manufacturers Association (SOCMA), is a nonprofit trade association representing over 100 organic chemical companies, the majority of which have annual organic chemical sales under $50,000,000. The members of SOCMA produce more than 5,000 synthetic organic chemicals which are primarily intermediates and finished chemicals for industrial use. They include dyes, pigments, flavor and perfume materials, surface active reagents, fire retardants, electronic chemicals, resins, plasticizers, rubber-processing chemicals and medicinals. The products of the organic chemical industry are essential to many other industries, including agriculture, textiles, paper, steel automobiles, rubber, aerospace, defense and electronics. The United States is a major importer and exporter of organic chemicals and SOCMA's members have a vital interest in the multilateral trade negotiations and trade reform legislation generally. A current list of SOCMA's members is attached to this testimony.

II. TARIFF NEGOTIATIONS ON CHEMICALS MUST REFLECT OUR CURRENT COMPETITIVE POSITION

A. The Trade Balance in Chemicals is Declining

As we embark on this new round it is important to recognize that the domestic chemical industry is facing a major competitive challenge in world markets. The U.S. favorable balance of trade in chemicals and allied products reached a peak of $12.16 billion in 1980. It has declined an average of 9% per year since then to $7.63 billion in 1985.

With respect to industrial organic chemicals, the trend has been even more marked. Imports of those chemicals have increased sharply, from $3.5 billion in 1981 to $5.4 billion in 1985. During the last two years the value of U.S. exports of industrial organic chemicals has remained stagnant at about $6.5 billion - a level only equal to that reached in 1981. The net effect of these trade trends has been to reduce the favorable U.S. balance of trade in industrial organic chemicals from approximately $3.0 billion in 1981 to only $1.0 billion last year. (Source: U.S. Department of Commerce, Schedule A, U.S. General Imports and Imports for Consumption and Schedule E, SITC Based Classification of Domestic and Foreign Commodities Exported from the United States. "Industrial organic chemicals" comprise product classification codes 51 and 53.)

As the above trade statistics demonstrate, our market is wide open while foreign markets are becoming increasingly difficult to penetrate. We cannot continue to ignore non-tariff barriers such as import licensing schemes and foreign investment requirements which distort trade in chemicals and impair the value of foreign tariff concessions. Unless meaningful progress is made on eliminating such trade distorting practices, substantial U.S. tariff cuts on chemicals are not in our best interest.

Despite lofty aims the last MTN, like all prior MTNs, was primarily a tariff cutting round in which the United States made substantial tariff concessions on chemicals and other products in exchange for foreign tariff concessions. When analyzed on a chemical sector basis, the foreign concessions on chemicals were not equivalent to what the U.S. gave up. Following the last MTN the International Trade Commission reported to the Committee on Finance of the United States Senate in 1979 that the tariff reductions on chemicals "on balance are viewed as slightly negative from the U.S. viewpoint." The Commission's report also predicted accurately that the companies producing cyclic (especially benzenoid) intermediates, synthetic dyes, and organic pigments (SIC 2865) would be likely to experience an increase in imports as a result of the MTN tariff reductions and the elimination of the American selling price system of Customs valuation. The report noted that domestic manufacturers of these products incur more costs than most foreign manufacturers for pollution abatement and for compliance with such measures as the Toxic Subsances Control Act and therefore may have difficulty in meeting foreign competition. (MTN Studies: 6 Part 5: Industry/Agriculture Sector Analyses, Senate Committee on Finance Print 96/27, 99th Congress, 1st Session, (August 1979)).

B. Recommendations on MTN Tariff Negotiating Authority

SOCMA strongly believes that this new round of Multilateral Trade Negotiations should focus on removing foreign non-tariff barriers and developing workable trade dispute resolution procedures and not simply be another tariff cutting exercise. In particular, granting the President broad authority to proclaim tariff reductions could accelerate the declining U.S. balance of trade in chemicals and seriously injure benzenoid chemical producers. SOCMA therefore urges that legislation granting the President tariff negotiating authority should include the following principles:

1. The President should be granted tariff negotiating authority, with agreements being subject to "fast track" Congressional review, as proposed in S. 1865. Tariff agreements should not be approved unless foreign

non-tariff restrictions which impair the value of tariff reductions have been addressed and substantially reduced.

2. The President should be authorized to negotiate reductions of no more than, 25% of the final Tokyo Round tariff levels and the reductions in U.S. tariffs should be phased in at a rate of no more than 1% *ad valorem* per year. For example, a 10% tariff should not be reduced more than 2.5% and that reduction should be phased in over three years.
3. The bill should require that tariff negotiations achieve sectoral balance so that tariff reductions on chemicals are matched by foreign tariff concessions on chemicals of equal competitive value.
4. The bill should establish a procedure to enable affected industries to identify and obtain exceptions from tariff cuts for import sensitive products.

5. The bill should instruct our negotiators to negotiate on tariffs on the basis of request lists, rather than by imposing formula cuts across the board, or automatically eliminating tariffs below certain levels.

It is important to note that we are recommending the President be granted tariff negotiating authority rather than tariff cutting authority. We believe Congress should retain some meaningful review of tariff agreements. Our negotiators should be required to demonstrate to the Congress that the tariff deals they have negotiated are reciprocal and beneficial. In particular, our negotiators need to relate tariff reduction agreements to meaningful progess on removing non-tariff barriers that can impair or nullify the benefits of any foreign tariff concessions.

Moreover, to ensure that the MTN does in fact focus on the non-tariff issues where progress is essential, the President only should be given authority to negotiate up to 25% tariff reductions. The President, of course, would be free to negotiate greater reductions or even the elimination of U.S. tariffs but such agreements would be subject to normal Congressional review and approval processes.

Any bill authorizing tariff negotiations should contain a procedure under which a domestic industry can obtain exceptions from the maximum tariff cuts for certain products. This is particularly important in the benzenoid chemical sector. The benzenoid chemicals formerly subject to the American selling price system of Customs valuation have historically been more sensitive to import competition than other classes of chemicals. For example, most benzenoid chemicals (e.g., cyclic intermediates, dyes) have been exempted from the Generalized System of Preferences program on the grounds of import sensitivity. Benzenoid chemicals are typically produced in relatively small batches requiring a higher proportion of labor input than chemicals produced in continuous process plants. In addition to having substantially higher labor costs than their foreign competitors, U.S. companies face higher expenditures for compliance with environmental laws and worker protection.

The combination of higher costs and the overvalued dollar has had a significant adverse impact on exports of these products and produced a flood of imports, facilitated by substantial tariff reductions and the elimination of the American selling price system ageed upon at the last MTN. Because of these factors, the domestic benzenoid industry has not been able to achieve the economies of scale of its foreign competitors and operates at a competitive disadvantage. It is therefore important to establish a procedure for excepting certain benzenoid products from substantial tariff cuts.

We recommend that the President be required as a pre-negotiation step to request the International Trade Commission to determine if the domestic industry producing certain articles is or will be at a competitive disadvantage with respect to imported articles if the maximum authorized cut in tariffs is made. If the ITC finds in the affirmative those articles should be excepted from any tariff negotiations or at least made subject to a cap on tariff cuts, specified by the ITC. The criteria the ITC should use to determine the existence of a competitively disadvantaged product should be explicitly set forth in the authorizing legislation and should establish a more liberal standard than the ITC has used in the past to determine whether articles were "import sensitive".

Finally, we recommend that tariff negotiations proceed on the basis of request lists in which each country lists the foreign tariffs it desires to have reduced rather than by proposing to reduce all tariffs across the board by some arbitrary formula amount or eliminating all tariffs below certain levels. After review of the request lists that the U.S. receives from our trading partners, and following the exeptions exercise mentioned above, the U.S. would table its responding offer with the objective of seeking a sectorially balanced agreement. Such a negotiating process is more likely to produce useful results for the U.S. chemical industry than the procedures followed in the last MTN round.

III. TRADE REFORM

A. Need for Revision of Antidumping Rules For State-Controlled Economies ("SCE")

The present means of calculating the antidumping duties applicable to products dumped on the U.S. market by Communist countries are unworkable because of the extreme uncertainty of the process. The practice of calculating antidumping duties by reference to a "surrogate country" should be changed so that petitioners and importers can accurately predict the outcome of an antidumping proceeding involving a SCE.

The uncertainty arises from the difficulty in ascertaining the appropriate "home market" price of goods sold by SCEs. To obtain relief under the antidumping laws, it is necessary to show that the allegedly dumped merchandise is being sold in the United States market for less than in the "home-market." If the prices charged for the merchandise in the home market are controlled by the government, those prices cannot be assumed to represent the "fair value" of the merchandise, and cannot be compared with the price charged for such merchandise in the United States to determine whether the merchandise is being dumped on the U.S. market. Therefore, under current law, the Commerce Department is directed to determine the foreign market value of the allegedly dumped merchandise by referring to the price at which such or similar merchandise produced by another foreign country that has a non-state-controlled economy (a "surrogate country") is sold.

In practice, the use of the "surrogate country" approach has proven unacceptable. Neither the domestic industry nor the foreign exporter can be certain what "surrogate country," and thus what prices, the Commerce Department will use to determine whether products of a Communist country are being dumped on the U.S. market. Because the domestic industry cannot determine the extent of relief which it could obtain, the current rules discourage the domestic industry from filing petitions for relief. Furthermore, in the absence of any clear benchmarks, an SCE country cannot determine with any precision what price levels will avoid dumping charges. There is therefore little inducement to raise prices above the levels selected to meet export sales targets. These problems have become more significant in recent years as SCE's such as Poland and China increase their chemical exports to the United States.

SOCMA believes that the antidumping rules must be amended to replace the "surrogate country" provisions with a more predictable and administratively practicable means of determining foreign market value in SCE cases. We believe that the proposal in S. 1868, introduced by Senator Heinz, to use the export prices of other market economy suppliers where available would be a significant improvement over the current system. However, we do have some reservations about the use of such prices when they have been driven down by SCE dumping at low prices. In such cases there is a need to adjust the U.S.

prices to take into account price depression caused by the SCE imports.

B. Financial Assistance to Firms Seeking Relief Under the Trade Laws

The procedure which must be followed in order to obtain relief under the trade laws from unfair foreign trade practices (*i.e.*, dumping and subsidization by foreign governments) is complex and costly and prevents many coumpanies from seeking relief. Generally, two separate and lengthy proceedings, one before the International Trade Administration and one before the International Trade Commission, must be successfully completed, followed by possible court appeals. The costs involved in these proceedings fall hardest on small businesses, who in many cases are the ones most severely injured by the unfair trade practices. In order to ensure that these companies have fair access to the statutory procedures to halt unfair trade practices, it is necessary for small firms to receive assistance to enable them to bring valid claims to the attention of the U.S. government.

A small step in that direction was made by Congress in the Trade and Tariff Act of 1984, when it directed the International Trade Commission ("ITC") to provide small businesses with technical assistance to enable them to file petitions and applications for relief under the trade laws. However, the assistance offered to small businesses is currently limited to informal technical and legal advice relating only to the preparation and filing of petitions. No assistance is available after the petition is filed and no financial assistance is provided.

Recognizing the limitations of the current law, Senator Dodd has introduced legislation (S. 2063) which would establish the Small Business Trade Remedy Trust Fund to partially defray the reasonable expenses, including legal fees and the costs of data collection, incurred by small businesses in connection with a nonfrivolous antidumping or countervailing duty proceeding. The monies in the Trust Fund would be obtained from the countervailing and antidumping duties which currently go into the general fund of the Treasury. Under Senator Dodd's bill, an eligible small business would receive reimbursement from the Trust Fund for 90% of the first $50,000 of its reasonable expenses and for 50% of its reasonable expenses over $50,000.

SOCMA believes that small businesses should not be barred for financial reasons from seeking remedies for unfair trade practices and accordingly strongly supports inclusion in the Senate trade reform bill of an assistance program similar to that contained in S. 2063. We also believe that consideration should be given to extending this partial cost reimbursement program to any successful petitioner regardless of size.

C. Proposed Administrative Process for Review of Duty Suspension Requests

SOCMA proposes that a procedure be set up in an Executive agency whereby manufacturers could petition for duty suspensions on products they desire to import which are not produced in the United States. This procedure would parallel the existing legislative procedure but would have some significant advantages.

When a manufacturer has to pay duties on products imported into the United States and which are not manufactured in the United States or which do not compete with United States products, the purpose of the tariff duty is not carried out. There is no United States industry to protect. Rather, the only effect of the duty is to place an additional cost on the person that must pay the duty. Many chemicals are imported as raw materials or components of a final product manufactured by the importer or ultimate user. Because most final chemical products compete with foreign imports, decreasing the cost of raw materials would increase the competitiveness of the domestic chemical industry.

In recognition of the fact that placing a duty on products that do not compete with any United States industry places an unnecessary cost on the ultimate United States user of the product without any corresponding benefit to any United States industry, Congress has often passed legislation suspending the duties on such products. In 1984 Congress enacted 63 duty suspensions 76% of which were for chemicals and it has a large number of pending requests at the present time, many of which are for chemicals.

The Congressional procedure, however, has many disadvantages, most of which are inherent in the legislative process. There is no mandatory procedure to require that the legislation be considered, nor are there any clearly established standards for determining which duty suspension requests should be granted and which denied. The timing of the process is extremely uncertain, as Congress may pass legislation at any time or never pass it at all, thereby making efficient corporate planning and contracting impossible. Also, it is all too easy for legislation to suspend duties to get lost in the ongoing crush of legislative business, in which only the most important matters are likely to receive consideration.

These disadvantages could be avoided if Congress were to create an administrative procedure to handle non-controversial duty suspension requests. Such a procedure would be particularly appropriate for most duty suspensions because of the commercial and economic nature of the issues involved in such requests and the continuing volume of requests that can be expected.

A significant advantage of the proposed administrative procedure is that it would give the President the ability to condition extension of duty suspension bills on the grant of reciprocal trade concessions by our foreign trading partners. At present the Congress simply makes unilateral tariff concessions and no attempt is made, or reasonably could be made, to negotiate reciprocal benefits.

It should be emphasized that this proposal is intended to be a supplement to the current Congressional system of granting duty suspensions. Persons would be free to request Congress to suspend a tariff in any case where the administrative system was viewed as inadequate or unavailable because of the limitations on eligibility of articles.

STATEMENT OF RICHARD T. O'CONNELL, PRESIDENT, CHOCOLATE MANUFACTURERS ASSOCIATION AND THE NATIONAL CONFECTIONERS ASSOCIATION, McLEAN, VA

Mr. O'CONNELL. Mr. Chairman and members of the committee, I am Richard T. O'Connell, president of the Chocolate Manufacturers Association and the National Confectioners Association. The two associations represent 118 chocolate and sugar confectionery companies whose 130 facilities span 31 States and employ 65,000 people. I appreciate the opportunity to comment on S. 1860, specifically title IV, negotiating authority, and to formally express our appreciation for the support each member of this committee has given the industry's efforts to overcome foreign barriers to its exports.

The American confectionery industry is the second largest industrial user of refined sugar and a major consumer of domestically grown peanuts, milk, and milk products. In 1985 the wholesale value of shipments was $7 billion. This is an industry that manufactures without subsidy and competes against heavy import competition without a buffer of tariffs or quotas. In fact, the U.S. duties of 5 and 7 percent on chocolate and sugar confectionery are among the lowest in the world. We seek the same fair treatment for our exports in foreign markets as imported confectionery receives here.

I am appearing before the committee today because, after years of effort, we have not been able to secure that opportunity. Rarely is the concept of reciprocity more abused than in the confectionery trade. The U.S. market is open; tariffs are low, and nontariff barriers are absent.

Nevertheless, United States exports confront tariffs of 13 percent in Canada, 15 percent in Europe, 30 percent in Taiwan, and 40 percent in Korea. Japan, in a display of inexcusable protectionism, suppresses imports with a 20-percent duty on chocolate and a 35-percent duty on sugar confectionery.

Observing preparations for the new round, we are not sanguine that these inequities will be resolved. The confectionery industry recognizes the long-term value of GATT as a stabilizing influence in the international trading community and we support title IV of S. 1860, which gives the President negotiating authority to pursue U.S. objectives in the new round. However, as an industry, we want to be certain that those objectives include the correction of the grossly unjust structure of confectionery tariffs that was condoned in the 1979 Tokyo round.

Section 102 of title IV of the proposed legislation states Congress recognizes that tariffs deny access, diminish the benefits of the reciprocal trade concessions, and prevent the growth of open and fair trade. Congress' recognition of tariffs as a barrier should be carried forward in this legislation and the elimination of tariffs cited in section 404 which establishes U.S. negotiating objectives. We suggest that in paragraph (2) of section 104, "Negotiating objectives under section 102," the language tariff and nontariff barriers be inserted so that the reduction or elimination of tariff and nontariff barriers and other trade distorting practices becomes a mandated

U.S. negotiating objective. High tariffs exemplify trade restricting practices and are most economically insidious.

In its first annual report on trade estimates mandated by section 181 of the Trade and Tariff Act of 1984, the U.S. Trade Representative recognized tariffs as one of the 12 categories of foreign acts, policies, or practices constituting barriers to or distortions of U.S. trade.

Somehow tariffs take on an air of respectability and approval because they are transparent. I urge the committee not to allow this concept to become acceptable in our national trade goals. Trade reciprocity must include tariff parity. I will be finished in about 1 minute, Mr. Chairman.

The U.S. Trade Representative urged in his testimony of May 14, as he has on other occasions, that the President's tariff negotiating authority be restored. We urge the committee to favorably consider this request. Negotiating authority at this time could be a useful tool in freeing some of the bilateral tariff issues that have become intractable because the President cannot offer compensating concessions. Progress on these matters would contribute a positive momentum for the new round and would clear the agenda of old issues that could be stumbling blocks. Finally, the tariff negotiating authority would help alleviate concerns that the new round will be an obstacle to timely resolution of tariff issues. There will be less need for nations to withhold concessions for multilateral bargaining if there are to be gains in bilateral discussions with the United States.

We thank you, Mr. Chairman.

[The prepared written statement of Mr. O'Connell follows:]

TESTIMONY FOR ORAL PRESENTATION BEFORE THE SENATE FINANCE COMMITTEE

BY

RICHARD T. O'CONNELL
PRESIDENT, CHOCOLATE MANUFACTURERS ASSOCIATION AND
THE NATIONAL CONFECTIONERS ASSOCIATION

Concerning S. 1860, Title IV, Authority For A New Round Of Trade Negotiations and Related Provisions

July 23, 1986

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I am Richard T. O'Connell, President of the Chocolate Manufacturers Association of the U.S.A. and the National Confectioners Association of the U.S. The two associations represent 118 chocolate and sugar confectionery companies whose 130 facilities span 31 states and employ 65,000 people.

I appreciate the opportunity to comment on S. 1860, specifically Title IV Negotiating Authority, and to formally express our appreciation for the support each member of this Committee has given the industry's effort to overcome foreign barriers to its exports.

The American confectionery industry is the second largest industrial user of refined sugar and a major consumer of domestically grown peanuts, milk and milk products. In 1985, the wholesale value of shipments was $7 billion.

This is an industry that manufactures without subsidy, and competes against heavy import competition without a buffer of tariffs or quotas. In fact, the U.S. duties of 5% and 7% on chocolate and sugar confectionery are among the lowest in the world. We seek the same fair treatment for our exports in foreign markets as imported confectionery receives here.

I am appearing before the Committee today because after years of effort we have not been able to secure that opportunity. Rarely is the concept of reciprocity more abused than in confectionery trade. The U.S. market is open. Tariffs are low and nontariff barriers are absent. Nevertheless, U.S. exports confront tariffs of 13% in Canada, 15% in Europe, 30% in Taiwan, and 40% in Korea. Japan, in a display of inexcuseable protectionism, suppresses imports with a 20% duty on chocolate and 35% on sugar confectionery.

Observing preparations for the new Round, we are not sanguine that these inequities will be resolved. The confectionery industry recognizes the long-term value of GATT as a stabilizing influence in the international trading community and we support Title IV of

S. 1860 which gives the President negotiating authority to pursue U.S. objectives in the new Round. However, as an industry we want to be certain that those objectives include the correction of the grossly unjust structure of confectionery tariffs that was condoned in 1979 Tokyo Round.

Section 102 of Title IV of the proposed legislation states Congress recognizes that tariffs deny access, diminish the benefits of reciprocal trade concessions, and prevent the growth of open and fair trade. Congress's recognition of tariffs as a barrier should be carried forward in this legislation and the elimination of tariffs cited in Section 404 (amending Section 104 of the Trade Act of 1974) which establishes U.S. negotiating objectives.

We suggest that in paragraph (2) of Section 104, "Negotiating Objectives Under Section 102), the language tariff and nontariff barriers be inserted so that "the reduction or elimination of tariff and nontariff barriers and other trade distorting practices" becomes a mandated U.S. negotiating objective.

In his testimony before the Committee May 14th, U.S. Trade Representative Clayton Yeutter reported that tariffs would not be a major element in the new Round. From the perspective of an industry whose companies are actively developing export markets and experiencing the relentless erosion of profits and competitive positions by high tariffs, this is a disturbing statement.

High tariffs exemplify trade restricting practices and are among the most economically insidious. In its first Annual Report on National Trade Estimates (1985) mandated by Section 181 of the Trade and Tariff Act of 1984, the U.S. Trade Representative recognized tariffs as one of the 12 categories of foreign "acts, policies or practices" constituting barriers to, or distortions of U.S. trade. The report went on to highlight Japan's excessive tariff on chocolate as a serious handicap to U.S. exporters competing against large domestic manufacturers and a deliberate attempt by Japan to limit imported confectionery to a minimal share of that market.

The effect of these and other high tariffs is amplified through each step in the import, wholesale and retail chain until the imported product reaches the consumer at an exaggerated, often uncompetitive price. Unless exporters are willing, and able, to absorb the tariff for the sake of market development, the cost must be passed on to the consumer. The inevitable result is loss of broadly based consumer appeal, market share, and eventual pull back from the market.

Somehow tariffs have taken on an air of respectability and approval because they are transparent. I urge the Committee not to allow this concept to become acceptable in our national trade policy goals. Trade reciprocity must include tariff parity.

The U.S. Trade Representative urged in his testimony May 14th, as he has on other occasions, that the President's tariff negotiating authority be restored. We urge the Committees favorable consideration of this request. Negotiating authority at this time could be a useful tool in freeing some of the bilateral tariff issues that have become intractable because the President cannot offer compensating concessions.

Progress on these matters would contribute a positive momentum for the new Round and would clear the agenda of old issues that could be stumbling blocks. Finally, tariff negotiating authority would help alleviate concerns that the new Round will be an obstacle to timely resolution of tariff issues. There will be less need for nations to withhold concessions for multilateral bargaining if there are gains to be made in bilateral discussions with the United States.

Mr. Chairman, Members, we thank you and remain ready to work with the Committee and its staff as this legislation evolves.

The CHAIRMAN. Mr. O'Connell, are you suggesting that the tariff on chocolates or confectioneries ought to be the same? If the United States has 5 percent, all the other coutries ought to have 5 percent; or if one country has 10 percent we would have 10 percent on their chocolate?

Mr. O'CONNELL. Yes; something of that nature.

The CHAIRMAN. Now——

Mr. O'CONNELL. It is on a concessionary basis. If they will concede——

The CHAIRMAN. You are willing to go toe to toe?

Mr. O'CONNELL. Right.

The CHAIRMAN. If we have 10 percent, then they have 10 percent?

Mr. O'CONNELL. Right. Absolutely.

The CHAIRMAN. All right. If they have nothing, we have nothing?

Mr. O'CONNELL. That is right.

The CHAIRMAN. Now, that is not something that the textile industry is willing to do. They are not willing to go toe to toe—if they have nothing, we have nothing. So, how are we going to work out a satisfactory agreement where some industries are convinced they can do all right, and others aren't, if our standards are going to be consistent ones that we are going to go sector by sector, and the tariffs are going to be the same coming in and going out?

Mr. O'CONNELL. Very simply you can do it on a sector-by-sector basis.

The CHARIMAN. Except that textiles is not prepared to accept that. If Hong Kong has no tariff on textiles, we should have no tariff on Hong Kong textiles; or if not a tariff, we are going to have some import quotas or something. They said they just can't do it on the basis.

Mr. O'CONNELL. I can't speak for the textile people, but I believe if you have a quid pro quo with the confectionery manufacturers in Hong Kong or the confectionery manufacturers in Japan, we ought to be able to negotiate on that basis. If you want to have separate negotiations on textiles, it is fine with us.

The CHAIRMAN. I think that——

Mr. O'CONNELL. What we are saying is that we want to compete on a worldwide basis.

The CHAIRMAN. And what you are saying is, I think, the opposite of what some of the previous group—Mr. Dam and others—said: We have to weigh this on a nationwide basis. Some industries are going to lose and some are going to gain; but overall if the country comes out ahead, that is a favorable negotiation.

Mr. O'CONNELL. We certainly want the country to come out ahead, as was stated by Senator Long and previous witnesses; but I don't believe that our trade should be sacrificed necessarily. We had a case just recently where——

The CHAIRMAN. When you say "our," you mean chocolate?

Mr. O'CONNELL. Chocolate and confectionery. Yes. What is being said or implied is that it would be perfectly all right to make some arrangement on textiles. If that is good for the textile industry and perhaps for the country, we would believe that a beneficial result of good negotiation on chocolate and sugar confectionery would be equally beneficial to the country.

This is one of the matters which bothers us about the recent retaliatory action against Europe. Confectionery products were placed under, admittedly, loose quotas, but the principle was based on U.S. commodities' problems in Europe. This troubles us.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. Mr. O'Connell, how long would the U.S. confectionery industry be willing to agree to a stand-still agreement, that is, an agreement?

Mr. O'CONNELL. How long?

Senator BAUCUS. Would the confectionery industry be willing to agree to a stand-still agreement, that is, no new trade restrictions would be imposed by any country while the new round is being conducted?

Mr. O'CONNELL. I would have to get some idea how long that stand-still agreement would last.

Senator BAUCUS. My question is, How long could you hold out?

Mr. O'CONNELL. Right now, if I was given my druthers, about 90 days, but I am sure you would want longer than that. Our problem is that the amount of imports coming into the United States—the market share has doubled in the last 5 years, from 3½ to about 7 percent of our total consumption. We see this growing. We have no objections to brand-named items coming into the United States. That is the consumer's choice. If they prefer theirs over one of the domestically produced products, that is fine; but we want the same opportunity to export in Japan and in Europe. We want it in South Korea and we want it in Taiwan, and particularly in other newly industrialized countries where growing affluence also means growing consumption of confectionery products.

Senator BAUCUS. I understand, but if there is to be a new GATT round, there might be a temptation on the part of some countries to suddenly enact all kinds of provisions that favor their own countries, in order to bargain them away under new authority. Some suggest that to prevent this there should be stand-still agreements. My question is, Under present conditions, if there were a freeze on the present international trade laws of all countries and all practices while we negotiate new agreements under the GATT, could the confectionery industry reasonably last under a stand-still agreement?

Mr. O'CONNELL. I suppose we could reasonably last maybe a year or two, but we are finding a problem which is not the problem of this committee, but one of our major ingredients, sugar, is under a domestic price support program in the United States. We are fighting very low world sugar prices. So, we have a practical economic problem with our basic ingredient, and this, can only be alleviated, to some degree, if we can increase our production through exportation.

Senator BAUCUS. It is going to be a problem that every industry is going to face, and it is a tough one. I have no further questions. Thank you.

The CHAIRMAN. Gentlemen, I have no others. Thank you very much.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

[By direction of the chairman, the following communications were made a part of the hearing record:]

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July 28, 1986

The Honorable Robert Packwood
Chairman
U.S. Senate Committee on Finance
U.S. Senate
SD-219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman;

We represent and are writing on behalf of the Auto Internacional Association (the "Association"). The Association is an industry group representing over three hundred importers, exporters, manufacturers and distributors of parts and accessories for imported motor vehicles. The industry supports over one hundred thousand (100,000) Americans. We have previously submitted testimony on S. 1860 and would like to reiterate our position with regard to the "Trade Enhancement Act."

The Association is a supporter of free trade among and between the United States and its trading partners. In the past we have supported the devaluation of the dollar. We also support any program which will fairly enhance the competitiveness of United States' industries. The trade deficit remains a problem. The present Administration has, however, succeeded in slowing the trade deficit through sound fiscal policy and negotiation. The Administration has not resorted to the creation of barriers except in those instances where unfair competition has clearly been shown. We support those portions of the Bill which grant authority to launch worldwide trade liberalization talks and the new standards to assess unfair trading by socialist countries.

We are concerned, however, over certain portions of the Bill which is being considered by the Senate Committee on Finance. The first area of concern is the removal of certain flexibility in the foreign trade area which has traditionally been accorded the President. Decisions regarding international trade cannot be made without consideration of national security interests and have generally been made by the President or those to whom he delegates authority. It seems to us unnecessary and possibly counter-productive to mandate by law the delegation of that Presidential authority to the Trade Representative. This legislative delegation seems designed to undercut useful communications between officials with differing expertise in the executive branch. The President must be given the latitude necessary to fully consider all sides of an issue instead of being required to retaliate or grant protection to certain domestic industries.

The Association is concerned that the Bill may open a floodgate of cases before the International Trade Commission by lessening the standard upon which relief from imports may be granted and by lessening the authority of the President. Imports should be both a substantial and a primary cause of injury before relief is granted. Further, the present procedure is adequate for redressing unfair competition. The Association supports the current standard and procedure. To change will not increase productivity. Instead, it will increase the price of goods to U.S. consumers, monopolize the U.S. market in certain industries, and remove an important incentive for U.S. industry to become more efficient. This will in turn invite interference with the activities of the import industry, as well as with our international trade policies.

In addition, the Association opposes proposed Section 405 of the Bill entitled "Authority to impose or increase duties in lieu of quotas and to auction import licenses." The sale of import licenses at public auction will disrupt the industry represented by the Association for no apparent reason. Further, the Association is composed of small businesses who may not have the wherewithal to compete in a public auction of the type suggested by the Bill. This provision is plainly anti-small business and would be both bad law and bad policy. It would suppress competition and increase the cost of goods to the American public.

Finally, the Association is concerned about certain aspects of Title VIII regarding intellectual property rights. We are concerned that the Bill will foreclose an important avenue of competition, that of parallel importation of original goods. The Association supports reasonable measures to curtail the importation of counterfeit goods. Original products which are imported through parallel trading channels, however, should not be considered an unfair trading practice. Instead, they offer fair competition to benefit the American consumer. Title VIII should be clarified to allow parallel importation of original goods.

Based on the foregoing reasons, we urge your Committee to amend the draft in the fashion requested in this letter. Specifically, we would urge you to maintain executive flexibility in this area and to leave intact the existing standard for import relief.

Sincerely,

John Russell Deane III

JOHN RUSSELL DEANE III

Statement of J. Richard Iverson
President and Chief Executive Officer
American Electronics Association
to
The Committee on Finance
Subcommittee on International Trade
United States Senate
July 23, 1986

Mr. Chairman, my name is Dick Iverson, I am President of the American Electronics Association. AEA represents more than 2,600 high technology companies from all segments of the electronics sector, including telecommunications, computers, software, semiconductors, instruments, and so forth.

Together, our companies account for 63 percent of the world wide sales of the U.S. based electronics sector. Consequently, we have a very large stake in expanding international trade. We believe that multilateral trade negotiations are an important avenue to this end. AEA strongly supports legislation authorizing the President to engage in multilateral trade negotiations. This Committee's treatment of this subject today is an important step toward such authorization, and we applaud your leadership, Mr. Chairman, in calling these hearings.

Purpose of a New Trade Round

Trade liberalization, per se, has always been a principal U.S. objective of trade negotiations. In previous rounds, with high U.S. barriers to imports, it was felt that reduction of these U.S. barriers in and of itself would benefit U.S. industry.

Going into this new trade round, this is no longer the case. We are confronted today with a situation where the United States has virtually no barriers to the imports of foreign electronics products. For most U.S. industries, a similar situation exists except for severely import sensitive industries such as textiles, where additional trade liberalization by the United States will be politically difficult.

Accordingly, the principal objective of this new trade round should be to expand international discipline to areas not presently covered. The extension of trade barriers by many countries into "grey areas" has steadily undermined the open international trading system and will do further damage if discipline is not extended.

The second major objective of a new trade round should be to promote the industrial competitiveness of the United States. Open and free trade is in the U.S. interest, but a balance of access is necessary in key industries, since an imbalance in the trading system, in and of itself, can cause industrial problems. (For example, in the telecommunications area, if access to foreign markets is not gained in the near future, the U.S. industry will be severely weakened.) All U.S. negotiating positions and objectives should be evaluated for their impact on U.S. industrial competitiveness, and no agreements should be implemented unless they pass the test of being in the U.S. interest.

Issues To Be Covered

Within this context, there is a long list of issues that need to be covered in the new trade round. The following issues are not listed in any priority order since all of these issues are of importance to the electronics sector. However, the electronics sector is concerned that a number of countries are pressing to drop intellectual property protection, investment, and government procurement from future negotiations. These issues are all of critical importance to the electronics industry and these areas must be included in a new trade round.

1. Intellectual Property: It is not acceptable for nations to inadequately protect intellectual property. Technology is our major competitive strength in the world market today. The GATT, even though it has very weak dispute settlement mechanisms at present, has better dispute mechanisms than

any other international body. Additionally, because intellectual property distortions lead directly to trade distortions, this is an appropriate area for GATT jurisdiction. While we favor strengthening existing international property organizations such as WIPO, we believe the new GATT round must include intellectual property. A framework should be developed within the context of the GATT for accelerated agreements on such issues as copyright protection for software and chip design protection. Such agreements should subject the trade ramifications of failure to protect any intellectual property to GATT discipline. Because the Commercial Counterfeit Code has already been agreed to, we would urge its immediate implementation.

2. Investment: Many nations, particularly developing countries, are increasingly requiring companies to transfer technology as a price for investment, and to adhere to unrealistic local content or export performance requirements. These measures all have extensive trade ramifications. A multilateral agreement on investment must set out acceptable conduct.

3. Services, particularly Data Processing and Telecommunications Value-Added Networks: Many countries are requiring data processing to be done within their boarders.

This not only weakens the U.S. data processing industry, but it can have adverse competitive affects on manufacturers as well. Both data processing and value added networks must be brought under multilateral discipline.

4. Government Procurement: The government procurement code negotiated in the Tokyo Round trade negotiations did not include several extremely important sectors under its coverage. A high priority of a new trade round must be to include telecommunications, surface transportation, and heavy electrical sectors under the code. The electronics industries, of course, are critically interested in the telecommunications inclusion. Expanding coverage of the code to include these areas is more important than improving code operating procedures or altering thresholds and other potential changes, although these other steps are also of importance and should be pursued.

5. Treatment of Developing Countries: At present, developing countries are basically outside the GATT system. Under Part IV of the GATT, they may basically do what they wish. Some countries, such as Brazil, have trade systems that basically block competition. Additionally, there are no agreed rules of the road on what is acceptable conduct in the area of industrial policy or government targeting of another country's market. (These industrial policy/targeting tools,

of course, have been used by Japan in its growth effort, and are now being extensively copied by the newly industrialized countries of the Far East.) Acceptable rules of conduct must be developed in these areas. In developing these rules, we would recognize the legitimate role of countries to adopt measures to stimulate domestic industry. These rules, however, cannot be beggar-thy-neighbor or discriminatory; they must enhance the global welfare and be applied uniformally to domestic and international businesses.

We believe the best leverage the U.S. has for successful North/South negotiations is our tariff preference margins. We support the concept in the 1984 trade act of expanding the GSP system, but conditioning its benefits to advanced developing countries on the access they provide to their domestic market and their protection for intellectual property. To maximize the leverage of tariff preferences in developing north/south discipline, we believe that there should be no tariff formula cut in the new trade round. Instead, tariff concessions should be done only on a request offer basis where the industries involved favor the tariff reductions. As a general rule, however, it should be agreed that developed country duties will be maintained, so as to provide a margin of preference for duty free imports from developing countries. These preference margins, in turn, should be used in negotiations with the advanced developing countries for bringing those nations under international discipline.

6. Competition Policies: There is a wide disparity in industrial development philosophies among nations, ranging from reliance on market forces to state owned and directed economies. The GATT framework attempts to address some of the practices that result from government industrial development efforts, such as subsidies and government procurement discrimination. However, other practices are not addressed, such as formation of cartels, dual pricing of raw materials, and allocation of capital to favored sectors. The multilateral trading system must develop a broader consensus on appropriate objectives and practices individual countries may pursue with reference to the country's stage of development and the trade impact of the practice. Since industrial development objectives and practices change over time, the GATT framework must also be flexible enough to adjust to such changes.

7. Dumping: Under the dumping code agreed to in the Tokyo Round, in some cases penalties are insufficient to discourage predatory pricing practices. We believe consideration should be given within the GATT to extending the dumping code to include more rapid enforcement,

collection of back penalties, and increased penalties for repeat offenders.

8. Standards: While a great step forward, the standards code agreed to in the Tokyo Round does not require countries' to accept other countries test data. Accordingly, nations have increasingly used certification and testing requirements as a trade barrier. Standards code discipline should be extended to these areas.

9. Customs (Rules of Origin): The EC/EFTA preferential trade agreement contains restrictive rules of origin that particularly adversely affect our semiconductor industry. We are concerned that customs rules of origin can increasingly become a trade barrier in the 1990s. Given the adoption of the harmonized customs nomenclature, this would appear to be a particularly opportune time to negotiate an agreement on rules of origin.

10. Safeguards: A safeguards code that allows temporary restraint subject to multilateral review, coupled with pressures on the domestic industry to adjust, is an important part of global trade liberalization. It is unrealistic to think that industries would be amenable to remove barriers without some safety valve. Accordingly, a safeguards code should be negotiated that allows legitimate

temporary restraint. In exchange, all measures now in effect outside the safeguard mechanism, should be brought under this multilateral discipline.

Other Issues: In as many of the above areas as possible, it is important that strong dispute settlement mechanisms be included.

Tariffs were not listed above because we believe tariffs should be given low priority in any new trade round. Tariff concessions should only be made on a request/offer basis to cover specific products of real significance to industry.

Parallel Issues

Japan: Japan's imports of manufactured products are a vastly lower percentage of that nation's GNP than is true for any other developed country. Additionally, the Japanese market contains a wide array of barriers to imports from developing countries. Our enormous bilateral deficit with Japan would be far more manageable if the Japanese economy ran a deficit with other countries in areas that one would anticipate from market forces. A major emphasis parallel to this negotiating round should be to ensure that the Japanese market is fully open to global competition. The U.S. made enormous progress in four specific areas of interest to the U.S. in the 1985 MOSS talks. This process should be broadened to ensure similar progress in other areas for U.S. industry and for other nations.

Monetary: While separate from multilateral trade negotiations, we welcome the U.S. emphasis on making progress on monetary talks. We believe the current system which has permitted an enormous over-valued dollar and rapid currency fluctuations can be injurious to international trade. This issue should be revisited since there has not been a major effort to increase multilateral discipline in the monetary area since 1971. We do not, however, believe that progress in the monetary talks should limit or restrict the potential progress in the trade talks.

The Importance of Flexibility

AEA notes with satisfaction that many of the concerns cited above are touched upon in S. 1860. Because it is difficult to outline ways of dealing with this broad array of the trade picture in legislation, AEA favors building flexibility into the negotiating authority. This is particularly important in order to allow agreements to be reached on several issues as quickly as possible instead of waiting until the entire round has been concluded. Specific issues that should be on a fast track include extension of the government procurement code to include the PTTs, improved discipline on rules of origin, and an acceptable safeguards code. Accordingly, thought could be given to a two-wave negotiation where left over issues from the Tokyo Round are concluded within two years, and the new and more controversial areas are resolved as quickly as possible thereafter.

Also in the interest of providing the President with maximum negotiating flexibility, AEA does not believe that standstill or rollback agreements should be made a precondition to the MTN.

TESTIMONY FOR ORAL PRESENTATION
BEFORE THE SENATE FINANCE COMMITTEE

BY

RICHARD T. O'CONNELL
PRESIDENT, CHOCOLATE MANUFACTURERS ASSOCIATION AND
THE NATIONAL CONFECTIONERS ASSOCIATION

Concerning S. 1860, Title IV, Authority For A New Round
Of Trade Negotiations and Related Provisions

July 23, 1986

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I am Richard T. O'Connell, President of the Chocolate Manufacturers Association of the U.S.A. and the National Confectioners Association of the U.S. The two associations represent 118 chocolate and sugar confectionery companies whose 130 facilities span 31 states and employ 65,000 people.

I appreciate the opportunity to comment on S. 1860, specifically Title IV Negotiating Authority, and to formally express our appreciation for the support each member of this Committee has given the industry's effort to overcome foreign barriers to its exports.

The American confectionery industry is the second largest industrial user of refined sugar and a major consumer of domestically grown peanuts, milk and milk products. In 1985, the wholesale value of shipments was $7 billion.

This is an industry that manufactures without subsidy, and competes against heavy import competition without a buffer of tariffs or quotas. In fact, the U.S. duties of 5% and 7% on chocolate and sugar confectionery are among the lowest in the world. We seek the same fair treatment for our exports in foreign markets as imported confectionery receives here.

I am appearing before the Committee today because after years of effort we have not been able to secure that opportunity. Rarely is the concept of reciprocity more abused than in confectionery trade. The U.S. market is open. Tariffs are low and nontariff barriers are absent. Nevertheless, U.S. exports confront tariffs of 13% in Canada, 15% in Europe, 30% in Taiwan, and 40% in Korea. Japan, in a display of inexcuseable protectionism, suppresses imports with a 20% duty on chocolate and 35% on sugar confectionery.

Observing preparations for the new Round, we are not sanguine that these inequities will be resolved. The confectionery industry recognizes the long-term value of GATT as a stabilizing influence in the international trading community and we support Title IV of

S. 1860 which gives the President negotiating authority to pursue U.S. objectives in the new Round. However, as an industry we want to be certain that those objectives include the correction of the grossly unjust structure of confectionery tariffs that was condoned in 1979 Tokyo Round.

Section 102 of Title IV of the proposed legislation states Congress recognizes that tariffs deny access, diminish the benefits of reciprocal trade concessions, and prevent the growth of open and fair trade. Congress's recognition of tariffs as a barrier should be carried forward in this legislation and the elimination of tariffs cited in Section 404 (amending Section 104 of the Trade Act of 1974) which establishes U.S. negotiating objectives.

We suggest that in paragraph (2) of Section 104, "Negotiating Objectives Under Section 102), the language tariff and nontariff barriers be inserted so that "the reduction or elimination of tariff and nontariff barriers and other trade distorting practices" becomes a mandated U.S. negotiating objective.

In his testimony before the Committee May 14th, U.S. Trade Representative Clayton Yeutter reported that tariffs would not be a major element in the new Round. From the perspective of an industry whose companies are actively developing export markets and experiencing the relentless erosion of profits and competitive positions by high tariffs, this is a disturbing statement.

High tariffs exemplify trade restricting practices and are among the most economically insidious. In its first Annual Report on National Trade Estimates (1985) mandated by Section 181 of the Trade and Tariff Act of 1984, the U.S. Trade Representative recognized tariffs as one of the 12 categories of foreign "acts, policies or practices" constituting barriers to, or distortions of U.S. trade. The report went on to highlight Japan's excessive tariff on chocolate as a serious handicap to U.S. exporters competing against large domestic manufacturers and a deliberate attempt by Japan to limit imported confectionery to a minimal share of that market.

The effect of these and other high tariffs is amplified through each step in the import, wholesale and retail chain until the imported product reaches the consumer at an exaggerated, often uncompetitive price. Unless exporters are willing, and able, to absorb the tariff for the sake of market development, the cost must be passed on to the consumer. The inevitable result is loss of broadly based consumer appeal, market share, and eventual pull back from the market.

Somehow tariffs have taken on an air of respectability and approval because they are transparent. I urge the Committee not to allow this concept to become acceptable in our national trade policy goals. Trade reciprocity must include tariff parity.

The U.S. Trade Representative urged in his testimony May 14th, as he has on other occasions, that the President's tariff negotiating authority be restored. We urge the Committees favorable consideration of this request. Negotiating authority at this time could be a useful tool in freeing some of the bilateral tariff issues that have become intractable because the President cannot offer compensating concessions.

Progress on these matters would contribute a positive momentum for the new Round and would clear the agenda of old issues that could be stumbling blocks. Finally, tariff negotiating authority would help alleviate concerns that the new Round will be an obstacle to timely resolution of tariff issues. There will be less need for nations to withhold concessions for multilateral bargaining if there are gains to be made in bilateral discussions with the United States.

Mr. Chairman, Members, we thank you and remain ready to work with the Committee and its staff as this legislation evolves.

THE FERTILIZER INSTITUTE
NEWS RELEASE

Contact:
Thomas E. Waldinger

Testimony Calls On
U.S. To Seek
Trade Reciprocity

FOR IMMEDIATE RELEASE

WASHINGTON, July 23, 1986 -- U.S. trade negotiators should seek international tariff reductions on a product-by-product basis rather than using a formula applied broadly to all products, according to a fertilizer industry spokesman who appeared today before the Senate Finance Committee. The committee is currently considering comprehensive trade legislation which will include priorities for the next round of multilateral trade negotiations.

James J. Galvin, board chairman of the Phosphate Rock Export Association, testifying on behalf of The Fertilizer Institute, told senators that concerted efforts should be undertaken to reduce tariffs which other nations impose on U.S. exports, "especially for those products entering the United States duty free." For this reason, he added, tariff reductions on an individual basis would be much more effective than resorting to an overall formula for such costs.

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Galvin noted that roughly 40 percent of the U.S. fertilizer industry's $9 billion yearly sales is gained through exports, principally of phosphate and nitrogen. He said import tariffs charged on fertilizer products from the United States are costing the U.S. industry nearly $200 million each year.

"The United States does not impose import tariffs on fertilizer products from any country and has not done so since 1922," Galvin said. "Many countries which impose heavy tariffs on imports of U.S. fertilizers enjoy duty-free access to the U.S. market."

In addition to tariff barriers which eliminate trade potential in some regions, the industry spokesman cited nontariff obstacles such as import quotas and product specification requirements. These are generally discriminatory standards, Galvin said, which are designed to give preference to other nations or as an act of retaliation against U.S. trade policy on other products.

"In its negotiations, the United States should insist on reciprocity in trade practices."

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The Fertilizer Institute represents, by voluntary membership, more than 90 percent of the nation's fertilizer industry. Producers, manufacturers, retailers, trading firms, and equipment manufacturers who comprise its membership are served by a full-time Washington, D.C., staff in various legislative, educational and technical areas, as well as with information and public relations programs.

23rd

U.S. Council for an Open World Economy
INCORPORATED
7216 Stafford Road, Alexandria, Virginia 22307
(703) 765-2472

Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, to the Senate Committee on Finance in a hearing on a possible new round of trade negotiations (S.1865).
July 23, 1986

(The U.S. Council for an Open World Economy is a private, non-profit, public-interest organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any "special interest".)

S.1865 and similar provisions of S.1860 set forth the goals that U.S. trade policy should seek, and urge the President to achieve them through international negotiation. However, at neither end of Pennsylvania Avenue is there evident recognition of what needs to be undertaken to fully achieve these goals, although the bill may be read as authorizing the President to launch an initiative of such scope.

The bill identifies as the objectives of this legislation and of the negotiations it authorizes:

- to enhance U.S. economic growth and employment through expansion of competitive opportunities of U.S. exports in "a more open world trading system,"
- to reduce and eliminate barriers to trade on a basis that assures U.S. export opportunities that are "substantially equivalent to those afforded to exports of foreign countries in United States markets,"
- to strengthen U.S. economic relations with other countries "through an open and fair international trading system that ensures an equitable balance of rights and obligations for all countries,"
- "to establish, improve, and enforce international trading rules which provide fair and equitable trading relations between countries, including reform of the General Agreement on Tariffs and Trade," and
- to obtain "an appropriate overall balance between benefits and concessions within the agricultural, manufacturing, mining, and services sectors."

A deliberate effort to fully seek these worthy objectives --

not just move toward these goals but to resolutely strive for them with measured but deliberate speed -- requires a definitive, explicitly free-trade strategy in foreign economic policy, backstopped by an appropriate adjustment/redevelopment strategy in domestic economic policy. Language concerning the removal of trade barriers and distortions should mean what it says. In fact, "more open, fair and equitable" (words used in the bill) should be replaced by "open, fair and equitable", for we should be losing no time in seeking the *highest* standards of openness, fairness and equity (even though compromises in the timetable,etc. may have to be accepted. As I have argued many times in Congressional testimony and other places, achievement of totally fair trade necessitates a deliberate policy of totally free trade with as many countries as agree to join us in such an undertaking. In short, totally free trade and totally fair trade are one strategy indivisible. Without a definitive free-trade strategy (addressing all barriers and all forms of unfairness in trade relations), the totally fair trade which all sides of the trade-policy debate surely want would be a mirage, not unduly describable as a pipe dream.

Similarly, the bill's desired balance of benefits and concessions within the agricultural, manufacturing, mining and services sectors is fully achievable only through a compact -- of necessity a "free trade" agreement -- that reaches all barriers, distortions and practices within all these sectors. In addition, there should be an appropriate overall balance *between*, not just *within*, these sectors. The bill omits the preposition "between". Moreover, the desired quest for competitive opportunities for U.S. exports in all the designated sectors "equivalent to the competitive opportunities" afforded corresponding foreign exports to the U.S. market -- a search for reciprocity -- calls for *optimum* reciprocity encompassing the whole range of internationally traded goods and services. Such reciprocity is achievable only through a strategy to secure fully free, fully fair, fully balanced international trade by the countries party to the negotiated arrangement.

Under the bill, "the President is urged to take all appropriate and feasible steps within the power of the Presidency" to reduce or eliminate trade barriers and other trade distortions. This language may be read as authorizing a carefully and properly devised "free trade" strategy of the kind I have proposed. However, I do not sense any readiness in the Executive Branch, the Congress, or in nearly the entire so-called "free trade" community to venture this far at this time.